

2000 ACTS

Second Regular Session of the 111th Indiana General Assembly

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PREFACE TO 2000 ACTS

ARRANGEMENT

This year's edition of the Acts of Indiana includes all laws from the Second Regular Session of the 111th General Assembly. The laws are arranged into two categories: first, laws of a permanent nature that amend the Indiana Code or laws that are temporary or special in nature and that do not amend the Code; and second, joint resolutions.

Public Law 14 of the 2000 Second Regular Session of the 111th General Assembly (P.L.14-2000) is a technical, nonsubstantive act to correct technical errors in Indiana's statutory law.

The text of all other laws enacted during the Second Regular Session is arranged, insofar as possible, in order in which the governor signed the bills into law or the order in which laws not signed and not vetoed by the governor took effect.

PRINTING CODE

A special printing code has been used in publishing the session laws in order that the reader may determine at a glance the specific changes made by any amendment. The following statement appeared at the top of each bill:

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 1999 General Assembly.

Upon the recommendation of the Code Revision Commission, the Legislative Council authorized a change in the style in which bills are printed to highlight the manner in which "blind amendments" are resolved in the technical correction bill prepared by the Code Revision Commission. A "blind amendment" occurs when two or more enrolled acts amend the same section of law but fail to indicate how they are to be read together. P.L.14-2000 (SEA 12-2000), the technical correction bill prepared for the 2000 Session of the General Assembly, uses an *italic typeface* to indicate that one or more words contained in a law enacted in 1999 were absent from other versions the law enacted in the same session. P.L.14-2000 (SEA 12-2000) in 2000 resolves the differences by striking superfluous words and inserting additional words as needed to harmonize the various versions of the law.

This system is intended to make the session laws more usable to the researcher by eliminating the need to compare each amendment against the text of the prior law in order to determine exactly what changes the General Assembly made.

Of course, these typefaces are intended only as a tool to indicate to the reader the text of the prior law that was deleted by amendment and to highlight any new text that was added by amendment. They are

not a permanent part of the law itself. In reproducing or quoting the law, it is unnecessary to retain these typefaces; instead, all stricken text may be deleted and all boldface and italic may be reproduced in regular type.

PUBLIC LAW CITATION FORM

The public law citation form incorporates the year the public law was enacted as a part of the public law number. For example, Public Law 1 enacted by the 111th Second Regular Session is cited as P.L.1-2000.

CERTIFICATION

IC 2-6-1.5 requires the Indiana Legislative Council to supervise the preparation, indexing, and distribution of the session laws. Under IC 2-6-1.5, the Speaker of the House of Representatives and President Pro Tempore of the Senate must certify that the printed session laws have been compared with the enrolled acts and joint resolutions and have been found correct. The certification immediately follows the text of the session laws in Volume II.

CASH STATEMENT

Article 10, Section 4 of the Constitution of the State of Indiana requires that an "accurate statement of the receipts and expenditures of the public money, shall be published with the laws of each regular session of the General Assembly". The statement for the current year appears in this publication following the certification of the session laws.

TABLES

There are two citation tables at the end of Volume II, offset from the text by a green divider. The Table of Citations Affected sets out each section of the Code that has been affected by legislation enacted at the Second Regular Session of the 111th General Assembly. The Enrolled Act Number to Public Law Number Table provides cross-references from House and Senate bill numbers to public law numbers for the Second Regular Session of the 111th General Assembly.

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Immediately following the tables in Volume II is a subject index for the legislation enacted at the Second Regular Session of the 111th General Assembly.

LAWS OF INDIANA

passed at the
SECOND REGULAR SESSION
111TH GENERAL ASSEMBLY

P.L.1-2000

[S.1. Approved November 19, 1999.]

AN ACT to amend the Indiana Code concerning criminal law and procedure.

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

SECTION 1. IC 4-31-8-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) A permit holder shall provide an alcohol breath-testing device that is approved by the commission and operated by a person certified to use such a device. All drivers, jockeys, judges, starters, assistant starters, and drivers of starting gates shall submit to a breath test at each racing program in which they participate. In addition, the secretary of the commission, a member of the commission, a commission investigator, the stewards, or the track chief of security may order a licensee to submit to a breath test at any time there is reason to believe the licensee may have consumed sufficient alcohol to cause the licensee to fail a breath test.

(b) A person whose breath test shows a reading of **an alcohol concentration equivalent (as defined in IC 9-13-2-2.4) to more than five-hundredths of one percent (0.05%) (0.05) gram** of alcohol by weight in grams in one hundred (100) milliliters of the person's blood;

~~or in~~ **per** two hundred ten (210) liters of the person's breath, is subject to the following sanctions:

- (1) A driver or jockey may not be permitted to drive or ride and shall be suspended under the rules of the commission.
- (2) A judge, a starter, an assistant starter, or a driver of the starting gate shall be relieved of all duties for that program, and a report shall be made to the commission for appropriate action.
- (3) Any other licensee shall be suspended, beginning that day, under the rules of the commission.

(c) The stewards and judges shall, on behalf of the commission, impose the following sanctions against a licensee who refuses to submit to a breath test:

- (1) For the first refusal, a civil penalty of one hundred dollars (\$100) and a seven (7) day suspension.
- (2) For a second refusal, a civil penalty of two hundred fifty dollars (\$250) and a thirty (30) day suspension.
- (3) For any additional refusals to submit to a breath test, a civil penalty of two hundred fifty dollars (\$250), a sixty (60) day suspension, and referral of the case to the commission for any further action that the commission considers necessary.

(d) A sanction under subsection (c) may be appealed to the commission. An appeal stays the sanction until further action by the commission. The appeal must be heard by the commission within thirty (30) days after the date of the appeal.

SECTION 2. IC 9-13-2-2.4 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.4. "Alcohol concentration equivalent" means the alcohol concentration in a person's blood or breath determined from a test of a sample of the person's blood or breath.**

SECTION 3. IC 9-13-2-131 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 131. "Prima facie evidence of intoxication" includes evidence that at the time of an alleged violation ~~there was the person had an alcohol concentration equivalent to~~ at least ten-hundredths percent (~~0.10%~~) **(0.10) gram** of alcohol ~~by weight in grams in per:~~

- (1) one hundred (100) milliliters of the person's blood; or
- (2) two hundred ten (210) liters of the person's breath.

SECTION 4. IC 9-13-2-151 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 151. "Relevant evidence of intoxication" includes evidence that at the time of an alleged violation ~~there was a person had an alcohol concentration equivalent to~~ at least five-hundredths percent ~~(0.05%)~~ **(0.05) gram**, but less than ten-hundredths percent ~~(0.10%)~~ **(0.10) gram** of alcohol ~~by weight in grams in per:~~

- (1) one hundred (100) milliliters of the person's blood; or
- (2) two hundred ten (210) liters of the person's breath.

SECTION 5. IC 9-24-6-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. A person who operates a commercial motor vehicle with **an alcohol concentration equivalent to** at least four-hundredths percent ~~(0.04%)~~ **(0.04) gram** but less than ten-hundredths percent ~~(0.10%)~~ **(0.10) gram** of alcohol ~~by weight in grams in per:~~

- (1) one hundred (100) milliliters of the person's blood; or
- (2) two hundred ten (210) liters of the person's breath;

commits a Class C infraction.

SECTION 6. IC 9-30-5-1(CURRENT VERSION) IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.

(a) A person who operates a vehicle with **an alcohol concentration equivalent to** at least ten-hundredths percent ~~(0.10%)~~ **(0.10) gram** of alcohol ~~by weight in grams in: per:~~

- (1) one hundred (100) milliliters of the person's blood; or
- (2) two hundred ten (210) liters of the person's breath;

commits a Class C misdemeanor.

(b) A person who operates a vehicle with a controlled substance listed in schedule I or II of IC 35-48-2 or its metabolite in the person's body commits a Class C misdemeanor.

(c) It is a defense to subsection (b) that the accused person consumed the controlled substance under a valid prescription or order of a practitioner (as defined in IC 35-48-1) who acted in the course of the practitioner's professional practice.

SECTION 7. IC 9-30-5-1, AS AMENDED BY P.L.266-1999, SECTION 2 (DELAYED VERSION), IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1. (a) A person who operates a vehicle with **an alcohol concentration equivalent to** at least ten-hundredths percent ~~(0.10%)~~ **(0.10) gram** of alcohol ~~by weight in grams~~ but less than fifteen-hundredths percent ~~(0.15%)~~ **(0.15) gram**

of alcohol ~~by weight in grams in per:~~

- (1) one hundred (100) milliliters of the person's blood; or
- (2) two hundred ten (210) liters of the person's breath;

commits a Class C misdemeanor.

(b) A person who operates a vehicle with **an alcohol concentration equivalent to** at least fifteen-hundredths ~~percent (0.15%)~~ **(0.15) gram** of alcohol ~~by weight in grams in per:~~

- (1) one hundred (100) milliliters of the person's blood; or
- (2) two hundred ten (210) liters of the person's breath;

commits a Class A misdemeanor.

(c) A person who operates a vehicle with a controlled substance listed in schedule I or II of IC 35-48-2 or its metabolite in the person's body commits a Class C misdemeanor.

(d) It is a defense to subsection (c) that the accused person consumed the controlled substance under a valid prescription or order of a practitioner (as defined in IC 35-48-1) who acted in the course of the practitioner's professional practice.

SECTION 8. IC 9-30-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) A person who causes serious bodily injury to another person when operating a motor vehicle:

- (1) with **an alcohol concentration equivalent to** at least ten-hundredths ~~percent (0.10%)~~ **(0.10) gram** of alcohol ~~by weight in grams in per:~~

- (A) one hundred (100) milliliters of the person's blood; or
- (B) two hundred ten (210) liters of the person's breath;

- (2) with a controlled substance listed in schedule I or II of IC 35-48-2 or its metabolite in the person's body; or
- (3) while intoxicated;

commits a Class D felony. However, the offense is a Class C felony if, within the five (5) years preceding the commission of the offense, the person had a prior unrelated conviction under this chapter.

(b) A person who violates subsection (a) commits a separate offense for each person whose serious bodily injury is caused by the violation of subsection (a).

(c) It is a defense under subsection (a)(2) that the accused person consumed the controlled substance under a valid prescription or order of a practitioner (as defined in IC 35-48-1) who acted in the course of the practitioner's professional practice.

SECTION 9. IC 9-30-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) A person who causes the death of another person when operating a motor vehicle:

(1) with **an alcohol concentration equivalent to** at least ten-hundredths ~~percent (0.10%)~~ **(0.10) gram** of alcohol ~~by weight~~ **in grams in per:**

(A) one hundred (100) milliliters of the person's blood; or

(B) two hundred ten (210) liters of the person's breath;

(2) with a controlled substance listed in schedule I or II of IC 35-48-2 or its metabolite in the person's blood; or

(3) while intoxicated;

commits a Class C felony. However, the offense is a Class B felony if, within the five (5) years preceding the commission of the offense, the person had a prior unrelated conviction under this chapter.

(b) A person who violates subsection (a) commits a separate offense for each person whose death is caused by the violation of subsection (a).

(c) It is a defense under subsection (a)(2) that the accused person consumed the controlled substance under a valid prescription or order of a practitioner (as defined in IC 35-48-1) who acted in the course of the practitioner's professional practice.

SECTION 10. IC 9-30-5-8.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8.5. (a) A person who:

(1) is less than twenty-one (21) years of age; and

(2) operates a vehicle with **an alcohol concentration equivalent to** at least two-hundredths ~~percent (0.02%)~~ **(0.02) gram** but less than ten-hundredths ~~percent (0.10%)~~ **(0.10) gram** of alcohol ~~by weight~~ **in grams in per:**

(A) one hundred (100) milliliters of the person's blood; or

(B) two hundred ten (210) liters of the person's breath;

commits a Class C infraction.

(b) In addition to the penalty imposed under this section, the court may recommend the suspension of the driving privileges of the operator of the vehicle for not more than one (1) year.

SECTION 11. IC 9-30-6-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) At any proceeding concerning an offense under IC 9-30-5 or a violation under

IC 9-30-15, evidence of the ~~amount by weight of~~ alcohol **concentration** that was in the blood of the person charged with the offense:

- (1) at the time of the alleged violation; or
- (2) within the time allowed for testing under section 2 of this chapter;

as shown by an analysis of the person's breath, blood, urine, or other bodily substance is admissible.

(b) If, in a prosecution for an offense under IC 9-30-5, evidence establishes that:

- (1) a chemical test was performed on a test sample taken from the person charged with the offense within the period of time allowed for testing under section 2 of this chapter; and
- (2) the person charged with the offense had **an alcohol concentration equivalent to** at least ten-hundredths percent ~~(0.10%)~~ **(0.10) gram of alcohol by weight in grams in per:**

- (A) one hundred (100) milliliters of the person's blood at the time the test sample was taken; or
- (B) two hundred ten (210) liters of the person's breath;

the trier of fact shall presume that the person charged with the offense had **an alcohol concentration equivalent to** at least ten-hundredths percent ~~(0.10%)~~ **(0.10) gram of alcohol by weight in grams in per** one hundred (100) milliliters of the person's blood or **in per** two hundred ten (210) liters of the person's breath at the time the person operated the vehicle. However, this presumption is rebuttable.

(c) If evidence in an action for a violation under IC 9-30-5-8.5 establishes that:

- (1) a chemical test was performed on a test sample taken from the person charged with the violation within the time allowed for testing under section 2 of this chapter; and
- (2) the person charged with the violation:
 - (A) was less than twenty-one (21) years of age at the time of the alleged violation; and
 - (B) had **an alcohol concentration equivalent to** at least two-hundredths percent ~~(0.02%)~~ **(0.02) gram of alcohol by weight in grams in per:**
 - (i) one hundred (100) milliliters of the person's blood; or
 - (ii) two hundred ten (210) liters of the person's breath;

at the time the test sample was taken;
 the trier of fact shall presume that the person charged with the violation had **an alcohol concentration equivalent to** at least two-hundredths percent (~~0.02%~~) **(0.02) gram** of alcohol by weight in grams ~~in per~~ one hundred (100) milliliters of the person's blood or ~~in per~~ two hundred ten (210) liters of the person's breath at the time the person operated the vehicle. However, the presumption is rebuttable.

(d) If, in an action for a violation under IC 9-30-15, evidence establishes that:

(1) a chemical test was performed on a test sample taken from the person charged with the offense within the time allowed for testing under section 2 of this chapter; and

(2) the person charged with the offense had **an alcohol concentration equivalent to** at least four-hundredths percent (~~0.04%~~) **(0.04) gram** of alcohol by weight in grams ~~in per~~:

(A) one hundred (100) milliliters of the person's blood; or

(B) two hundred ten (210) liters of the person's breath;

at the time the test sample was taken;

the trier of fact shall presume that the person charged with the offense had **an alcohol concentration equivalent to** at least four-hundredths percent (~~0.04%~~) **(0.04) gram** of alcohol by weight in grams ~~in per~~ one hundred (100) milliliters of the person's blood or ~~in per~~ two hundred ten (210) liters of the person's breath at the time the person operated the vehicle. However, this presumption is rebuttable.

SECTION 12. IC 9-30-8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. An ignition interlock device shall be set to render a motor vehicle inoperable if the ignition interlock device detects **an alcohol concentration equivalent to** at least two-hundredths percent (~~0.02%~~) **(0.02) gram** of alcohol by weight in grams ~~in per~~:

(1) one hundred (100) milliliters of the blood of the person; or

(2) two hundred ten (210) liters of the breath of the person;

who offers a breath sample.

SECTION 13. IC 9-30-10-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) A person who has accumulated at least two (2) judgments within a ten (10) year period for any of the following violations, singularly or in combination, not arising out of the same incident, and with at least one (1) violation

occurring after March 31, 1984, is a habitual violator:

- (1) Reckless homicide resulting from the operation of a motor vehicle.
- (2) Voluntary or involuntary manslaughter resulting from the operation of a motor vehicle.
- (3) Failure of the driver of a motor vehicle involved in an accident resulting in death or injury to any person to stop at the scene of the accident and give the required information and assistance.
- (4) Operation of a vehicle while intoxicated resulting in death.
- (5) Before July 1, 1997, operation of a vehicle with at least ten-hundredths percent (0.10%) alcohol in the blood resulting in death.
- (6) After June 30, 1997, operation of a vehicle with **an alcohol concentration equivalent to** at least ten-hundredths ~~percent~~ **(0.10) gram** of alcohol ~~by weight in grams in per:~~
 - (A) one hundred (100) milliliters of the blood; or
 - (B) two hundred ten (210) liters of the breath;
 resulting in death.

(b) A person who has accumulated at least three (3) judgments within a ten (10) year period for any of the following violations, singularly or in combination, not arising out of the same incident, and with at least one (1) violation occurring after March 31, 1984, is a habitual violator:

- (1) Operation of a vehicle while intoxicated.
- (2) Before July 1, 1997, operation of a vehicle with at least ten-hundredths percent (0.10%) alcohol in the blood.
- (3) After June 30, 1997, operation of a vehicle with **an alcohol concentration equivalent to** at least ten-hundredths ~~percent~~ **(0.10) gram** of alcohol ~~by weight in grams in per:~~
 - (A) one hundred (100) milliliters of the blood; or
 - (B) two hundred ten (210) liters of the breath.
- (4) Operating a motor vehicle while the person's license to do so has been suspended or revoked as a result of the person's conviction of an offense under IC 9-1-4-52 (repealed July 1, 1991) or IC 9-24-18-5(b).
- (5) Operating a motor vehicle without ever having obtained a license to do so.
- (6) Reckless driving.

(7) Criminal recklessness involving the operation of a motor vehicle.

(8) Drag racing or engaging in a speed contest in violation of law.

(9) Violating IC 9-4-1-40 (repealed July 1, 1991), IC 9-4-1-46 (repealed July 1, 1991), IC 9-26-1-1(1), IC 9-26-1-1(2), IC 9-26-1-1(4), IC 9-26-1-2(1), IC 9-26-1-2(2), IC 9-26-1-3, or IC 9-26-1-4.

(10) Any felony under an Indiana motor vehicle statute or any felony in the commission of which a motor vehicle is used.

A judgment for a violation enumerated in subsection (a) shall be added to the violations described in this subsection for the purposes of this subsection.

(c) A person who has accumulated at least ten (10) judgments within a ten (10) year period for any traffic violation, except a parking or an equipment violation, of the type required to be reported to the bureau, singularly or in combination, not arising out of the same incident, and with at least one (1) violation occurring after March 31, 1984, is a habitual violator. However, at least one (1) of the judgments must be for a violation enumerated in subsection (a) or (b). A judgment for a violation enumerated in subsection (a) or (b) shall be added to the judgments described in this subsection for the purposes of this subsection.

SECTION 14. IC 9-30-15-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. The operator of a motor vehicle who has **an alcohol concentration equivalent to** at least four-hundredths ~~percent (0.04%)~~ **(0.04) gram** of alcohol ~~by weight in grams in~~ **per** one hundred **(100)** milliliters of the blood, or **per** two hundred ten (210) liters of the breath, and who, while the motor vehicle is in operation, knowingly allows a container:

- (1) that has been opened;
- (2) that has a broken seal; or
- (3) from which some of the contents have been removed;

to be in the passenger compartment of the motor vehicle commits a Class B infraction. If a person is found to have a previous unrelated judgment under this section or a previous unrelated conviction or judgment under IC 9-30-5 within twelve (12) months before a violation that results in a judgment under this chapter, the court may recommend the person's driving privileges be suspended for not more than one (1)

year.

SECTION 15. IC 14-15-8-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. As used in this chapter, "prima facie evidence of intoxication" includes evidence that at the time of an alleged violation there was **an alcohol concentration equivalent (as defined in IC 9-13-2-2.4) to at least ten-hundredths percent (~~0.10%~~) (0.10) gram of alcohol by weight in grams in per:**

- (1) one hundred (100) milliliters of the person's blood; or
- (2) two hundred ten (210) liters of the person's breath.

SECTION 16. IC 14-15-8-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. As used in this chapter, "relevant evidence" includes evidence that at the time of the alleged violation there was ~~(1)~~ **an alcohol concentration equivalent (as defined in IC 9-13-2-2.4) to at least five-hundredths percent (~~0.05%~~); (0.05) gram and (~~2~~) less than ten-hundredths percent (~~0.10%~~); (0.10) gram of alcohol by weight in grams in per:**

- (1) one hundred (100) milliliters of the person's blood; or
- (2) two hundred ten (210) liters of the person's breath.

SECTION 17. IC 14-15-8-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) Except as provided in subsections (b) and (c), a person who operates a motorboat:

- (1) with **an alcohol concentration equivalent (as defined in IC 9-13-2-2.4) to at least ten-hundredths percent (~~0.10%~~) (0.10) gram of alcohol by weight in grams in per:**

- (A) one hundred (100) milliliters of the person's blood; or
- (B) two hundred ten (210) liters of the person's breath; or

- (2) while intoxicated;

commits a Class C misdemeanor.

(b) The offense is a Class D felony if:

- (1) the person has a previous conviction under:
 - (A) IC 14-1-5 (repealed); or
 - (B) this chapter; or
- (2) the offense results in serious bodily injury to another person.

(c) The offense is a Class C felony if the offense results in the death of another person.

SECTION 18. IC 35-33-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. A law enforcement agency may use the following chart to determine the

minimum number of hours that a person arrested for an alcohol-related offense should be detained before his release pending trial:

PERCENTAGE

BLOOD OR HOURS AFTER INITIAL READING

BREATH IS TAKEN

ALCOHOL

LEVEL IN

GRAMS	1	2	3	4	5	6	7	8	9	10	11	12	13	14
.11	.095	.08	.065	.05	.035	.02	.005	.00	.000	.00	.000	.00	.000	.00
.12	.105	.09	.075	.06	.045	.03	.015	.00	.000	.00	.000	.00	.000	.00
.13	.115	.10	.085	.07	.055	.04	.025	.01	.000	.00	.000	.00	.000	.00
.14	.125	.11	.095	.08	.065	.05	.035	.02	.005	.00	.000	.00	.000	.00
.15	.135	.12	.105	.09	.075	.06	.045	.03	.015	.00	.000	.00	.000	.00
.16	.145	.13	.115	.10	.085	.07	.055	.04	.025	.01	.000	.00	.000	.00
.17	.155	.14	.125	.11	.095	.08	.065	.05	.035	.02	.005	.00	.000	.00
.18	.165	.15	.135	.12	.105	.09	.075	.06	.045	.03	.015	.00	.000	.00
.19	.175	.16	.145	.13	.115	.10	.085	.07	.055	.04	.025	.01	.000	.00
.20	.185	.17	.155	.14	.125	.11	.095	.08	.065	.05	.035	.02	.005	.00
.21	.195	.18	.165	.15	.135	.12	.105	.09	.075	.06	.045	.03	.015	.00
.22	.205	.19	.175	.16	.145	.13	.115	.10	.085	.07	.055	.04	.025	.01
.23	.215	.20	.185	.17	.155	.14	.125	.11	.095	.08	.065	.05	.035	.02
.24	.225	.21	.195	.18	.165	.15	.135	.12	.105	.09	.075	.06	.045	.03
.25	.235	.22	.205	.19	.175	.16	.145	.13	.115	.10	.085	.07	.055	.04
.26	.245	.23	.215	.20	.185	.17	.155	.14	.125	.11	.095	.08	.065	.05

Note: In order to find when a person will reach the legal blood or breath alcohol level, find the blood or breath alcohol level reading in the left hand column, go across and find where the blood or breath alcohol level reading is **an alcohol concentration equivalent (as defined in IC 9-13-2-2.4) to below .10%, ten-hundredths (0.10) gram of alcohol per one hundred (100) milliliters of the person's blood or per two hundred ten (210) liters of the person's breath,** then read up that column to find the minimum number of hours before the person can be released.

SECTION 19. [EFFECTIVE UPON PASSAGE] (a) **Notwithstanding IC 4-22-2, to implement this act, the director of the department of toxicology of the Indiana University school of medicine may adopt a rule required under IC 9-30-6-5 or IC 9-30-6-6, or both, in the manner provided for emergency rules**

under IC 4-22-2-37.1.

(b) A rule adopted under this SECTION is effective when it is filed with the secretary of state and expires on the latest of the following:

(1) The date that the director adopts another emergency rule under this SECTION to amend, repeal, or otherwise supersede the previously adopted emergency rule.

(2) The date that the director adopts a permanent rule under IC 4-22-2 to amend, repeal, or otherwise supersede the previously adopted emergency rule.

(3) July 1, 2001.

(c) For the purposes of IC 9-30-7-4, IC 14-15-8-14, and other statutes, the provisions of a rule adopted under this SECTION shall be treated as a requirement under IC 9-30-6-5 or IC 9-30-6-6, or both, as appropriate.

SECTION 20. An emergency is declared for this act.

P.L.2-2000

[S.8. Approved December 1, 1999.]

AN ACT to amend the Indiana Code concerning taxation.

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

SECTION 1. IC 6-3-1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999 (RETROACTIVE)]: Sec. 11. (a) The term "Internal Revenue Code" means the Internal Revenue Code of 1986 of the United States as amended and in effect on January 1, ~~1998~~ **1999**.

(b) Whenever the Internal Revenue Code is mentioned in this article, the particular provisions that are referred to, together with all the other provisions of the Internal Revenue Code in effect on January 1, ~~1998~~ **1999**, that pertain to the provisions specifically mentioned, shall be regarded as incorporated in this article by reference and have

the same force and effect as though fully set forth in this article. To the extent the provisions apply to this article, regulations adopted under Section 7805(a) of the Internal Revenue Code and in effect on January 1, ~~1998~~, **1999**, shall be regarded as rules adopted by the department under this article, unless the department adopts specific rules that supersede the regulation.

(c) An amendment to the Internal Revenue Code made by an act passed by Congress before January 1, ~~1998~~, **1999**, that is effective for any taxable year that began before January 1, ~~1998~~, **1999**, and that affects:

- (1) individual adjusted gross income (as defined in Section 62 of the Internal Revenue Code);
- (2) corporate taxable income (as defined in Section 63 of the Internal Revenue Code);
- (3) trust and estate taxable income (as defined in Section 641(b) of the Internal Revenue Code);
- (4) life insurance company taxable income (as defined in Section 801(b) of the Internal Revenue Code);
- (5) mutual insurance company taxable income (as defined in Section 821(b) of the Internal Revenue Code); or
- (6) taxable income (as defined in Section 832 of the Internal Revenue Code);

is also effective for that same taxable year for purposes of determining adjusted gross income under IC 6-3-1-3.5 and net income under IC 6-3-8-2(b).

**SECTION 2. [EFFECTIVE JANUARY 1, 1999 (RETROACTIVE)]
IC 6-3-1-11, as amended by this act, applies to taxable years beginning after December 31, 1998.**

SECTION 3. An emergency is declared for this act.

P.L.3-2000

[S.9. Approved December 1, 1999.]

AN ACT to amend the Indiana Code concerning education finance.

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

SECTION 1. IC 21-1-30-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 2. For purposes of computation under this chapter, the following shall be used:

(1) Kindergarten pupils shall be counted as five-tenths (0.5). All other pupils shall be counted as one (1).

(2) The number of pupils shall be the number of pupils used in determining ADM, as defined by IC 21-3-1.6, for the current year. However, students who are transferred under IC 20-8.1-6.1 or IC 20-8.1-6.5 shall be counted as students having legal settlement in the transferee corporation and not having legal settlement in the transferor corporation:

(3) Only a licensed teacher who is an actual classroom teacher in a regular instructional program shall be counted as a teacher, except as permitted under section 5 of this chapter.

(4) If a school corporation is granted approval under section 5 of this chapter, the school corporation may include as one-third (1/3) of a teacher in its computation for funding under this chapter each classroom instructional aide who meets qualifications and performs duties prescribed by the Indiana state board of education:

(5) Base year refers to the school year immediately preceding the year that the school corporation implemented IC 21-1-29 (before its repeal by P.L.278-1993(ss); SECTION 16) for a particular grade level. However, if the enrollment and staffing patterns that year for any reason did not fairly represent the normal enrollment and staffing patterns of a particular school corporation for that grade level, the department of education may adjust the base year so that the base year reflects the normal staffing and enrollment pattern for that school corporation. (3) The staff cost amount for

a school corporation is sixty-five thousand one hundred dollars (\$65,100) for 2000 and sixty-seven thousand one hundred dollars (\$67,100) for 2001.

(4) The guaranteed amount for a school corporation is the primetime allocation, before any penalty is assessed under this chapter, that the school corporation would have received under this chapter for the 1999 calendar year.

(5) The at-risk index is the index determined under IC 21-3-1.8-1.1.

(6) The following apply to determine whether amounts received under this chapter have been devoted to reducing class size in kindergarten through grade 3 as required by section 3(b) of this chapter:

(A) Except as permitted under section 5.5 of this chapter, only a licensed teacher who is an actual classroom teacher in a regular instructional program is counted as a teacher.

(B) If a school corporation is granted approval under section 5.5 of this chapter, the school corporation may include as one-third (1/3) of a teacher each classroom instructional aide who meets qualifications and performs duties prescribed by the Indiana state board of education.

SECTION 2. IC 21-1-30-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 3. (a) The amount to be distributed to a school corporation ~~that implements~~ **under** this chapter for kindergarten is the amount determined ~~under subdivision (6) of~~ **by** the following formula:

(1) Determine the quotient of:

(A) the ADM of the school corporation, as determined under section 2(2) of this chapter in kindergarten for the current school year; divided by

(B) eighteen (18);

(2) Determine the lesser of:

(A) the amount determined under subdivision (1); or

(B) the number of full-time teacher equivalents employed by the school corporation for the current school year in kindergarten classes;

(3) Determine the sum of:

(A) the number of full-time teacher equivalents allocated by

the school corporation to kindergarten classes for the respective base year; and

(B) the net number of full-time teacher equivalents that the school corporation has reassigned since the base year, to grade levels affected by this chapter from grade levels not affected by this chapter, as determined by the Indiana state board of education; and as measured in the current year.

(4) Determine the remainder of:

(A) the amount determined under subdivision (2); minus

(B) the amount determined under subdivision (3).

(5) Determine the greater of:

(A) the amount determined under subdivision (4); or

(B) zero (0).

(6) Determine the product of:

(A) the amount determined under subdivision (5); and

(B) twenty-five thousand seven hundred fifty-two dollars (\$25,752) beginning with the 1995-1996 school year and twenty-six thousand five hundred twenty-six dollars (\$26,526) beginning with the 1996-1997 school year and for each school year thereafter.

STEP ONE: Determine the applicable target pupil teacher ratio for the school corporation as follows:

(A) If the school corporation's at-risk index is less than seventeen hundredths (0.17), the school corporation's target pupil teacher ratio is eighteen to one (18:1).

(B) If the school corporation's at-risk index is at least seventeen hundredths (0.17) but less than twenty-seven hundredths (0.27), the school corporation's target pupil teacher ratio is fifteen (15) plus the result of:

(i) determine the result of twenty-seven hundredths (0.27) minus the school corporation's at-risk index;

(ii) determine the item (i) result divided by one-tenth (0.1); and

(iii) determine the item (ii) result multiplied by three (3).

(C) If the school corporation's at-risk index is at least twenty-seven hundredths (0.27), the school corporation's target pupil teacher ratio is fifteen to one (15:1).

STEP TWO: Determine the result of:

(A) the ADM of the school corporation, as determined under section 2(2) of this chapter, in kindergarten through grade 3 for the current school year; divided by

(B) the school corporation's target pupil teacher ratio, as determined in STEP ONE.

STEP THREE: Determine the result of:

(A) the total regular general fund revenue (the amount determined in STEP ONE of IC 21-3-1.7-8) multiplied by seventy-five hundredths (0.75); divided by

(B) the school corporation's total ADM.

STEP FOUR: Determine the result of:

(A) the STEP THREE result; multiplied by

(B) the ADM of the school corporation, as determined under section 2(2) of this chapter in kindergarten through grade 3 for the current school year.

STEP FIVE: Determine the result of:

(A) the STEP FOUR result; divided by

(B) the staff cost amount.

STEP SIX: Determine the greater of zero (0) or the result of:

(A) the STEP TWO amount; minus

(B) the STEP FIVE amount.

STEP SEVEN: Determine the result of:

(A) the STEP SIX amount; multiplied by

(B) the staff cost amount.

STEP EIGHT: Determine the greater of the STEP SEVEN amount or the school corporation's guaranteed amount.

STEP NINE: Determine the lesser of the STEP EIGHT amount or the amount the school corporation received under this chapter for the previous calendar year multiplied by one hundred thirteen percent (113%). For 2000 calculations, the amount the school corporation received under this chapter for the previous calendar year is the 1999 calendar year allocation, before any penalty was assessed under this chapter.

(b) The amount received under this chapter shall be devoted to reducing class size in kindergarten through grade 3. A school corporation shall compile class size data for kindergarten through grade 3 and report the data to the department of education for purposes of maintaining compliance with this chapter.

SECTION 3. IC 21-1-30-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JANUARY 1, 2000]: **Sec. 5.5. (a) The Indiana state board of education shall approve the counting of classroom instructional aides as teachers under this chapter if the school corporation can substantiate each year that providing adequate classroom space for the attainment of the school corporation's target pupil/teacher ratio creates an unreasonable hardship for that school corporation.**

(b) If a school corporation qualifies under subsection (a) for classroom instructional aides, the school corporation shall present to the Indiana state board of education a plan concerning that school corporation's instructional aides program.

SECTION 4. IC 21-2-12-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 3. As used in this chapter:

(a) "County" means a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

(b) "County auditor", "county treasurer", and "county council" mean, respectively, the auditor, treasurer, and county council of the county.

(c) "School corporation" means any school corporation of the state of Indiana which has under its jurisdiction any territory located in the county.

(d) "County supplemental school financing tax" means the tax to be levied by the board of county commissioners under this chapter.

(e) "County school distribution fund" means the county fund into which the receipts from the county supplemental financing tax shall be credited and from which distributions to the school corporations shall be charged.

(f) "Average daily membership" or "ADM" has the meaning set forth in IC 21-3-1.6-1.1.

~~(g)~~ "Additional count" or "additional count per pupil" of a school corporation, or comparable language, means the additional count for certain pupils as set out in section 3.1 of this chapter and as determined at the times for calculating ADM.

~~(h)~~ (g) "Assessed valuation" of any school corporation means the net assessed value of its real and taxable personal property adjusted by a percentage factor. For each school corporation this factor shall be the

most recent adjustment factor computed by the state board of tax commissioners pursuant to IC 6-1.1-34.

(~~h~~) (h) "School year" means a year beginning July 1 and ending the next June 30.

(~~i~~) (i) The "entitlement" of a school corporation is that portion of the county school distribution fund to which any school corporation is entitled for any calendar year and on the basis of which the county supplemental school financing tax is set under the provisions of this chapter.

(~~j~~) (j) "Eligible pupil" has the meaning set forth in IC 21-3-1.6-1.1.

SECTION 5. IC 21-2-12-4.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 4.1. (a) Each calendar year, commencing in 1976, the county council shall impose on account of this fund the county school supplemental financing tax on the real and personal property subject to taxation by the county at the same time it adopts the county's budget, tax levy, and tax rate for the next calendar year under IC 6-1.1-17. The council shall set a rate for this tax which will produce the aggregate amount of the entitlements of the school corporations for the next calendar year as set out in section 6.1 of this chapter. In no event, however, may the amount of such levy be greater than the total dollar amount of that levy for 1972, payable in the calendar year 1973, assuming one hundred percent (100%) tax collection, multiplied by the ADA ratio (as defined in IC 6-1.1-19-1(d)).

(b) On or before July 10 of each year, the state superintendent of public instruction shall certify to the county auditor the consolidated ADA ratio of the school corporations in the county, the number of pupils in ADM ~~and additional count~~ of each school corporation in the county for the immediately preceding school year, and an estimate of these statistics for the succeeding school year. The county auditor shall compute the amount of the county supplemental school tax to be levied each year and on or before August 1 certify the amount to the county council. The rate required by this chapter shall be advertised and fixed by the county council in the same manner as other rates, and the tax rate shall be subject to all applicable law relating to review by the county tax adjustment board and the state board of tax commissioners. The state board of tax commissioners shall, however, certify the county supplemental school financing tax rate required by this chapter at the

time it certifies the other county rates. The state board of tax commissioners shall raise or lower this rate to the rate provided in this chapter, whether below or above the rate advertised by the county.

SECTION 6. IC 21-2-12-6.1, AS AMENDED BY P.L.181-1999, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 6.1. (a) The county supplemental school financing tax revenues shall be deposited in the county supplemental school distribution fund. In addition, for purposes of allocating distributions of tax revenues collected under IC 6-5-10, IC 6-5-11, IC 6-5.5, IC 6-6-5, IC 6-6-5.5, or IC 6-6-6.5, the county supplemental school financing tax shall be treated as if it were property taxes imposed by a separate taxing unit. Thus, the appropriate portion of those distributions shall be deposited in the county supplemental school distribution fund.

(b) The entitlement of each school corporation from the county supplemental school distribution fund for each calendar year after ~~1976~~ **2000** shall be the greater of:

- (1) the amount of its entitlement for the calendar year ~~1976~~ **2000** from the tax levied under this chapter; or
- (2) an amount equal to ~~twenty-two~~ **twenty-seven** dollars and fifty cents (~~\$22.50~~) (**\$27.50**) times the sum of its ADM. ~~plus the additional count of the school corporation for its pupils in all the categories set out in section 3-1 of this chapter for the school year ending in the year of distribution:~~

SECTION 7. IC 21-3-1.6-3.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: **Sec. 3.3. (a) The additional count for each pupil participating in a program is set out in the following table. The additional count of the school corporation for any category is the aggregate additional counts of its eligible pupils in that category enrolled in the school corporation.**

TABLE

VOCATIONAL PROGRAMS:	Additional Count
Agriculture A (1/2 day)	0.38
Agriculture B (1 period per day)	0.19
Distributive education	0.33
Health occupations (laboratory)	0.33
Consumer and homemaking	

(1 period per day)	0.14
Occupational home economics	
(laboratory)	0.33
Business education (laboratory)	0.33
Industrial education A (1/2 day)	0.48
Industrial education B	
(2 periods per day)	0.33
Cooperative education (all areas)	0.28
Area school participation	
(in addition to the above)	0.09

(b) Participation does not require participation to the extent of full-time equivalency. The Indiana state board of education shall adopt rules further defining the nature and extent of participation and the type of program qualifying for application of the table in subsection (a). No additional count shall be made on any program set out in the table that has not been approved by the Indiana state board of education or where the student is not participating to the extent required by any rule of the board.

(c) This section expires January 1, 2002.

SECTION 8. IC 21-3-1.6-3.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 3.4. (a) The additional count for each pupil participating in technology preparation programs is set out below. The additional count of the school corporation for this category is the aggregate additional counts of its eligible pupils in this category enrolled in the school corporation.

TECHNOLOGY PREPARATION PROGRAMS 0.33

(b) Participation does not require participation to the extent of full-time equivalency. The Indiana state board of education shall adopt rules further defining the nature and extent of participation and the type of program qualifying for application of subsection (a). No additional count shall be made on any program set out in subsection (a) that has not been approved by the Indiana state board of education or where the student is not participating to the extent required by any rule of the board.

(c) For purposes of IC 21-3-1.8-3, "additional pupil count" of a school corporation or comparable language includes the aggregate of the additional counts of the school corporation for pupils as set out under subsection (a).

(d) This section expires January 1, 2002.

SECTION 9. IC 21-3-1.7-3.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 3.1. (a) As used in this chapter, "previous year revenue" for calculations with respect to a school corporation equals:

(1) the school corporation's tuition support for regular programs, including basic tuition support, and excluding:

(A) special education grants;

(B) vocational education grants;

(C) at-risk programs;

(D) the enrollment adjustment grant; ~~and~~

(E) for 1999 and thereafter, the academic honors diploma award; **and**

(F) for 2001 and thereafter, the primetime distribution;

for the year that precedes the current year; plus

(2) the school corporation's tuition support levy for the year that precedes the current year before the reductions required under section 5(1), 5(2), and 5(3) of this chapter; plus

(3) the school corporation's excise tax revenue for the year that precedes the current year by two (2) years; minus

(4) an amount equal to the reduction in the school corporation's tuition support under subsection (b) or IC 20-10.1-2-1, or both.

(b) A school corporation's previous year revenue shall be reduced if:

(1) the school corporation's state tuition support for special or vocational education was reduced as a result of a complaint being filed with the department of education after December 31, 1988, because the school program overstated the number of children enrolled in special or vocational education programs; and

(2) the school corporation's previous year revenue has not been reduced under this subsection more than one (1) time because of a given overstatement.

The amount of the reduction equals the amount the school corporation would have received in tuition support for special and vocational education because of the overstatement.

SECTION 10. IC 21-3-1.7-8, AS AMENDED BY P.L.1-1999, SECTION 51, AND P.L.273-1999, SECTION 137, IS CORRECTED AND IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JANUARY 1, 2000]: Sec. 8. Notwithstanding IC 21-3-1.6 and subject to section 9 of this chapter, the state distribution for a calendar year for tuition support for basic programs for each school corporation equals the result determined using the following formula:

STEP ONE:

(A) **For a school corporation not described in clause (B),** determine the greater of the following:

~~(A)~~ The product of:

~~(i)~~ the school corporation's target revenue per ADM; multiplied by

~~(ii)~~ **(ii) the school corporation's adjusted ADM for the current year; school corporation's result under STEP FIVE of section 6.7 of this chapter for the calendar year.**

(B) For a school corporation that has target revenue per **adjusted** ADM for a calendar year that is equal to the IC 21-3-1.7-6.7 STEP ONE (C) amount, determine the sum of:

~~(i)~~ **(i) the school corporation's target revenue per ADM multiplied by the school corporation's adjusted ADM for the current year; result under STEP ONE of section 6.7 of this chapter for the calendar year; plus**

(ii) the amount of the annual decrease in federal aid to impacted areas from the year preceding the ensuing calendar year by three (3) years to the year preceding the ensuing calendar year by two (2) years; plus

(iii) the original amount of an excessive tax levy the school corporation imposed as a result of the passage, during the preceding year, of a referendum under IC 6-1.1-19-4.5(c) for taxes first due and payable during the year; plus

(iv) the part of the maximum general fund levy for the year that equals the original amount of the levy imposed by the school corporation to cover the costs of opening a new school facility during the preceding year.

STEP TWO: Determine the remainder of:

(A) the STEP ONE amount; minus

(B) the sum of:

~~(i)~~ **(i) the school corporation's tuition support levy; plus**

(ii) the school corporation's excise tax revenue for the year that precedes the current year by one (1) year.

If the state tuition support determined for a school corporation under this section is negative, the school corporation is not entitled to any state tuition support. In addition, the school corporation's maximum general fund levy under IC 6-1.1-19-1.5 shall be reduced by the amount of the negative result.

SECTION 11. IC 21-3-1.8-3, AS AMENDED BY P.L.273-1999, SECTION 143, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 3. In addition to the amount a school corporation is entitled to receive in tuition support, each school corporation is entitled to receive a grant for vocational education programs. The amount of the vocational education grant is the product of:

- (1) the school corporation's additional pupil count for the year for vocational education programs; multiplied by
- (2) for 2000, one thousand six hundred thirty-eight dollars (\$1,638) **and for 2001, one thousand six hundred eighty dollars (\$1,680).**

SECTION 12. IC 21-3-12-2, AS ADDED BY P.L.273-1999, SECTION 146, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 2. (a) Before ~~October~~ **April** 1 of each year, the department of workforce development shall provide the department of education with a report listing whether the Indiana labor market demand for each generally recognized labor category is more than moderate, moderate, or less than moderate. In the report, the department of workforce development shall categorize each of the vocational education programs using the following four (4) categories:

- (1) Programs that are addressing employment demand for individuals in labor market categories that are projected to need more than a moderate number of individuals.
- (2) Programs that are addressing employment demand for individuals in labor market categories that are projected to need a moderate number of individuals.
- (3) Programs that are addressing employment demand for individuals in labor market categories that are projected to need less than a moderate number of individuals.
- (4) All apprenticeship programs, cooperative education programs, and programs not covered by subdivisions (1) through (3) shall be included in this category.

(b) If a new vocational education program is created by rule of the Indiana state board of education, the department of workforce development shall determine the category in which the program should be included.

SECTION 13. IC 21-3-1.8-3 IS REPEALED [EFFECTIVE JANUARY 1, 2002].

SECTION 14. [EFFECTIVE JANUARY 1, 2001] P.L.273-1999, SECTION 147, IS AMENDED TO READ AS FOLLOWS: SECTION 147. THE FOLLOWING ARE REPEALED [EFFECTIVE JANUARY 1, 2001]: IC 21-2-12-3.1; IC 21-3-1.6-3; IC 21-3-1.6-3.2. ~~IC 21-3-1.8-3.~~

SECTION 15. [EFFECTIVE JANUARY 1, 2001] **Notwithstanding the effective date of January 1, 2001, for IC 21-3-12, as added by P.L.273-1999, SECTION 146, the vocational education formula in IC 21-3-1.6-3.3 and IC 21-3-1.6-3.4, as added by this act, shall be used for 2001.**

SECTION 16. THE FOLLOWING ARE REPEALED [EFFECTIVE JANUARY 1, 2000]: IC 21-1-30-3.1; IC 21-1-30-3.2; IC 21-1-30-3.3; IC 21-1-30-4; IC 21-1-30-5; IC 21-1-30-6; P.L.273-1999, SECTION 156; P.L.273-1999, SECTION 157; P.L.273-1999, SECTION 158.

SECTION 17. **An emergency is declared for this act.**

P.L.4-2000

[S.14. Approved December 1, 1999.]

AN ACT to amend the Indiana Code concerning taxation.

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

SECTION 1. IC 6-1.1-12.1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1. For purposes of this chapter:

(1) "Economic revitalization area" means an area which is within the corporate limits of a city, town, or county which has become undesirable for, or impossible of, normal development and

occupancy because of a lack of development, cessation of growth, deterioration of improvements or character of occupancy, age, obsolescence, substandard buildings, or other factors which have impaired values or prevent a normal development of property or use of property. The term "economic revitalization area" also includes:

- (A) any area where a facility or a group of facilities that are technologically, economically, or energy obsolete are located and where the obsolescence may lead to a decline in employment and tax revenues; and
- (B) a residentially distressed area, except as otherwise provided in this chapter.

(2) "City" means any city in this state, and "town" means any town incorporated under IC 36-5-1.

(3) "New manufacturing equipment" means any tangible personal property which:

- (A) was installed after February 28, 1983, and before January 1, 2006, in an area that is declared an economic revitalization area after February 28, 1983, in which a deduction for tangible personal property is allowed; or

- (B) is used in the direct production, manufacture, fabrication, assembly, extraction, mining, processing, refining, or finishing of other tangible personal property, including but not limited to use to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products; and

- (C) was acquired by its owner for use as described in clause (B) and was never before used by its owner for any purpose in Indiana.

However, notwithstanding any other law, the term includes tangible personal property that is used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products and was installed after March 1, 1993, and before March 2, 1996, even if the property was installed before the area where the property is located was designated as an economic revitalization area or the statement of benefits for the property was approved by the designating body.

(4) "Property" means a building or structure, but does not include

land.

(5) "Redevelopment" means the construction of new structures in economic revitalization areas, either:

(A) on unimproved real estate; or

(B) on real estate upon which a prior existing structure is demolished to allow for a new construction.

(6) "Rehabilitation" means the remodeling, repair, or betterment of property in any manner or any enlargement or extension of property.

(7) "Designating body" means the following:

(A) For a county that does not contain a consolidated city, the fiscal body of the county, city, or town.

(B) For a county containing a consolidated city, the metropolitan development commission.

(8) "Deduction application" means either:

(A) the application filed in accordance with section 5 of this chapter by a property owner who desires to obtain the deduction provided by section 3 of this chapter; or

(B) the application filed in accordance with section 5.5 of this chapter by a person who desires to obtain the deduction provided by section 4.5 of this chapter.

(9) "Designation application" means an application that is filed with a designating body to assist that body in making a determination about whether a particular area should be designated as an economic revitalization area.

(10) "Hazardous waste" has the meaning set forth in IC 13-11-2-99(a). The term includes waste determined to be a hazardous waste under IC 13-22-2-3(b).

(11) "Solid waste" has the meaning set forth in IC 13-11-2-205(a). However, the term does not include dead animals or any animal solid or semisolid wastes.

(12) "New research and development equipment" means tangible personal property that:

(A) is installed after June 30, 2000, and before January 1, 2006, in an economic revitalization area in which a deduction for tangible personal property is allowed;

(B) consists of:

(i) laboratory equipment;

- (ii) research and development equipment;**
 - (iii) computers and computer software;**
 - (iv) telecommunications equipment; or**
 - (v) testing equipment;**
- (C) is used in research and development activities devoted directly and exclusively to experimental or laboratory research and development for new products, new uses of existing products, or improving or testing existing products; and**
- (D) is acquired by the property owner for purposes described in this subdivision and was never before used by the owner for any purpose in Indiana.**

The term does not include equipment installed in facilities used for or in connection with efficiency surveys, management studies, consumer surveys, economic surveys, advertising or promotion, or research in connection with literacy, history, or similar projects.

SECTION 2. IC 6-1.1-12.1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 2. (a) A designating body may find that a particular area within its jurisdiction is an economic revitalization area. However, the deduction provided by this chapter for economic revitalization areas not within a city or town shall not be available to retail businesses.

(b) In a county containing a consolidated city or within a city or town, a designating body may find that a particular area within its jurisdiction is a residentially distressed area. Designation of an area as a residentially distressed area has the same effect as designating an area as an economic revitalization area, except that the amount of the deduction shall be calculated as specified in section 4.1 of this chapter and the deduction is allowed for **not more than** five (5) years. In order to declare a particular area a residentially distressed area, the designating body must follow the same procedure that is required to designate an area as an economic revitalization area and must make all the following additional findings or all the additional findings described in subsection (c):

- (1) The area is comprised of parcels that are either unimproved or contain only one (1) or two (2) family dwellings or multifamily dwellings designed for up to four (4) families, including accessory

buildings for those dwellings.

(2) Any dwellings in the area are not permanently occupied and are:

- (A) the subject of an order issued under IC 36-7-9; or
- (B) evidencing significant building deficiencies.

(3) Parcels of property in the area:

- (A) have been sold and not redeemed under IC 6-1.1-24 and IC 6-1.1-25; or
- (B) are owned by a unit of local government.

However, in a city in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000), the designating body is only required to make one (1) of the additional findings described in this subsection or one (1) of the additional findings described in subsection (c).

(c) In a county containing a consolidated city or within a city or town, a designating body that wishes to designate a particular area a residentially distressed area may make the following additional findings as an alternative to the additional findings described in subsection (b):

- (1) A significant number of dwelling units within the area are not permanently occupied or a significant number of parcels in the area are vacant land.
- (2) A significant number of dwelling units within the area are:
 - (A) the subject of an order issued under IC 36-7-9; or
 - (B) evidencing significant building deficiencies.
- (3) The area has experienced a net loss in the number of dwelling units, as documented by census information, local building and demolition permits, or certificates of occupancy, or the area is owned by Indiana or the United States.
- (4) The area (plus any areas previously designated under this subsection) will not exceed ten percent (10%) of the total area within the designating body's jurisdiction.

However, in a city in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000), the designating body is only required to make one (1) of the additional findings described in this subsection as an alternative to one (1) of the additional findings described in subsection (b).

(d) A designating body is required to attach the following conditions

to the grant of a residentially distressed area designation:

(1) The deduction will not be allowed unless the dwelling is rehabilitated to meet local code standards for habitability.

(2) If a designation application is filed, the designating body may require that the redevelopment or rehabilitation be completed within a reasonable period of time.

(e) To make a designation described in subsection (a) or (b), the designating body shall use procedures prescribed in section 2.5 of this chapter.

(f) The property tax deductions provided by sections 3 and 4.5 of this chapter are only available for ~~property and new manufacturing equipment respectively~~, within an area which the designating body finds to be an economic revitalization area.

(g) The designating body may adopt a resolution establishing general standards to be used, along with the requirements set forth in the definition of economic revitalization area, by the designating body in finding an area to be an economic revitalization area. The standards must have a reasonable relationship to the development objectives of the area in which the designating body has jurisdiction. The following three (3) sets of standards may be established:

(1) One (1) relative to the deduction under section 3 of this chapter for economic revitalization areas that are not residentially distressed areas.

(2) One (1) relative to the deduction under section 3 of this chapter for residentially distressed areas.

(3) One (1) relative to the deduction allowed under section 4.5 of this chapter.

(h) A designating body may impose a fee for filing a designation application for a person requesting the designation of a particular area as an economic revitalization area. The fee may be sufficient to defray actual processing and administrative costs. However, the fee charged for filing a designation application for a parcel that contains one (1) or more owner-occupied, single-family dwellings may not exceed the cost of publishing the required notice.

(i) In declaring an area an economic revitalization area, the designating body may:

(1) limit the time period to a certain number of calendar years during which the area shall be so designated;

- (2) limit the type of deductions that will be allowed within the economic revitalization area to either the deduction allowed under section 3 of this chapter or the deduction allowed under section 4.5 of this chapter;
- (3) limit the dollar amount of the deduction that will be allowed with respect to new manufacturing equipment **and new research and development equipment** if a deduction under this chapter had not been filed before July 1, 1987, for that equipment;
- (4) limit the dollar amount of the deduction that will be allowed with respect to redevelopment and rehabilitation occurring in areas that are designated as economic revitalization areas on or after September 1, 1988; or
- (5) impose reasonable conditions related to the purpose of this chapter or to the general standards adopted under subsection (g) for allowing the deduction for the redevelopment or rehabilitation of the property or the installation of the new manufacturing equipment **or new research and development equipment, or both.**

To exercise one (1) or more of these powers a designating body must include this fact in the resolution passed under section 2.5 of this chapter.

(j) Notwithstanding any other provision of this chapter, if a designating body limits the time period during which an area is an economic revitalization area, that limitation does not:

- (1) prevent a taxpayer from obtaining a deduction for new manufacturing equipment **or new research and development equipment, or both**, installed before January 1, 2006, but after the expiration of the economic revitalization area if:
 - (A) the economic revitalization area designation expires after December 30, 1995; and
 - (B) the new manufacturing equipment **or new research and development equipment, or both**, was described in a statement of benefits submitted to and approved by the designating body in accordance with section 4.5 of this chapter before the expiration of the economic revitalization area designation; or
- (2) limit the length of time a taxpayer is entitled to receive a deduction to a number of years that is less than the number of

years designated under section 4 or 4.5 of this chapter.

(k) Notwithstanding any other provision of this chapter, deductions:

(1) that are authorized under section 3 of this chapter for property in an area designated as an urban development area before March 1, 1983, and that are based on an increase in assessed valuation resulting from redevelopment or rehabilitation that occurs before March 1, 1983; or

(2) that are authorized under section 4.5 of this chapter for new manufacturing equipment installed in an area designated as an urban development area before March 1, 1983;

apply according to the provisions of this chapter as they existed at the time that an application for the deduction was first made. No deduction that is based on the location of property or new manufacturing equipment in an urban development area is authorized under this chapter after February 28, 1983, unless the initial increase in assessed value resulting from the redevelopment or rehabilitation of the property or the installation of the new manufacturing equipment occurred before March 1, 1983.

(l) If property located in an economic revitalization area is also located in an allocation area (as defined in IC 36-7-14-39 or IC 36-7-15.1-26), an application for the property tax deduction provided by this chapter may not be approved unless the commission that designated the allocation area adopts a resolution approving the application.

SECTION 3. IC 6-1.1-12.1-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 2.5. (a) If a designating body finds that an area in its jurisdiction is an economic revitalization area, it shall either:

(1) prepare maps and plats that identify the area; or

(2) prepare a simplified description of the boundaries of the area by describing its location in relation to public ways, streams, or otherwise.

(b) After the compilation of the materials described in subsection (a), the designating body shall pass a resolution declaring the area an economic revitalization area. The resolution must contain a description of the affected area and be filed with the county assessor. ~~The A~~ resolution **adopted after June 30, 2000**, may include a determination of ~~whether the number of years~~ a deduction under section 3 of this

chapter is allowed. ~~for three (3); six (6); or ten (10) years.~~ In addition, if the resolution is adopted after ~~April 30, 1991;~~ **June 30, 2000**, the resolution may include a determination of ~~whether the number of~~ **years** a deduction under section 4.5 of this chapter is allowed. ~~for five (5) or ten (10) years.~~

(c) After approval of a resolution under subsection (b), the designating body shall do the following:

- (1) Publish notice of the adoption and substance of the resolution in accordance with IC 5-3-1.
- (2) File the following information with each taxing unit that has authority to levy property taxes in the geographic area where the economic revitalization area is located:
 - (A) A copy of the notice required by subdivision (1).
 - (B) A statement containing substantially the same information as a statement of benefits filed with the designating body before the hearing required by this section under sections 3 and 4.5 of this chapter.

The notice must state that a description of the affected area is available and can be inspected in the county assessor's office. The notice must also name a date when the designating body will receive and hear all remonstrances and objections from interested persons. The designating body shall file the information required by subdivision (2) with the officers of the taxing unit who are authorized to fix budgets, tax rates, and tax levies under IC 6-1.1-17-5 at least ten (10) days before the date of the public hearing. After considering the evidence, the designating body shall take final action determining whether the qualifications for an economic revitalization area have been met and confirming, modifying and confirming, or rescinding the resolution. This determination is final except that an appeal may be taken and heard as provided under subsections (d) and (e).

(d) A person who filed a written remonstrance with the designating body under this section and who is aggrieved by the final action taken may, within ten (10) days after that final action, initiate an appeal of that action by filing in the office of the clerk of the circuit or superior court a copy of the order of the designating body and his remonstrance against that order, together with his bond conditioned to pay the costs of his appeal if the appeal is determined against him. The only ground of appeal that the court may hear is whether the proposed project will

meet the qualifications of the economic revitalization area law. The burden of proof is on the appellant.

(e) An appeal under this section shall be promptly heard by the court without a jury. All remonstrances upon which an appeal has been taken shall be consolidated and heard and determined within thirty (30) days after the time of the filing of the appeal. The court shall hear evidence on the appeal, and may confirm the final action of the designating body or sustain the appeal. The judgment of the court is final and conclusive, unless an appeal is taken as in other civil actions.

SECTION 4. IC 6-1.1-12.1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 3. (a) An applicant must provide a statement of benefits to the designating body. If the designating body requires information from the applicant for economic revitalization area status for use in making its decision about whether to designate an economic revitalization area, the applicant shall provide the completed statement of benefits form to the designating body before the hearing required by section 2.5(c) of this chapter. Otherwise, the statement of benefits form must be submitted to the designating body before the initiation of the redevelopment or rehabilitation for which the person desires to claim a deduction under this chapter. The state board of tax commissioners shall prescribe a form for the statement of benefits. The statement of benefits must include the following information:

- (1) A description of the proposed redevelopment or rehabilitation.
- (2) An estimate of the number of individuals who will be employed or whose employment will be retained by the person as a result of the redevelopment or rehabilitation and an estimate of the annual salaries of these individuals.
- (3) An estimate of the value of the redevelopment or rehabilitation.

With the approval of the state board of tax commissioners, the statement of benefits may be incorporated in a designation application. Notwithstanding any other law, a statement of benefits is a public record that may be inspected and copied under IC 5-14-3-3.

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

made) the following findings:

- (1) Whether the estimate of the value of the redevelopment or rehabilitation is reasonable for projects of that nature.
- (2) Whether the estimate of the number of individuals who will be employed or whose employment will be retained can be reasonably expected to result from the proposed described redevelopment or rehabilitation.
- (3) Whether the estimate of the annual salaries of those individuals who will be employed or whose employment will be retained can be reasonably expected to result from the proposed described redevelopment or rehabilitation.
- (4) Whether any other benefits about which information was requested are benefits that can be reasonably expected to result from the proposed described redevelopment or rehabilitation.
- (5) Whether the totality of benefits is sufficient to justify the deduction.

A designating body may not designate an area an economic revitalization area or approve a deduction unless the findings required by this subsection are made in the affirmative.

(c) Except as provided in subsections (a) through (b), the owner of property which is located in an economic revitalization area is entitled to a deduction from the assessed value of the property. If the area is a residentially distressed area, the period is **not more than** five (5) years. For all other economic revitalization areas **designated before July 1, 2000**, the period is three (3), six (6), or ten (10) years. ~~as determined under subsection (d).~~ **For all economic revitalization areas designated after June 30, 2000, the period is the number of years determined under subsection (d).** The owner is entitled to a deduction if:

- (1) the property has been rehabilitated; or
- (2) the property is located on real estate which has been redeveloped.

The owner is entitled to the deduction for the first year, and any successive year or years, in which an increase in assessed value resulting from the rehabilitation or redevelopment occurs and for the ~~two (2), four (4), five (5), or nine (9) years immediately following each such year or years whichever is applicable.~~ **determined under subsection (d).** However, property owners who had an area designated

an urban development area pursuant to an application filed prior to January 1, 1979, are only entitled to a deduction for a five (5) year period. In addition, property owners who are entitled to a deduction under this chapter pursuant to an application filed after December 31, 1978, and before January 1, 1986, are entitled to a deduction for a ten (10) year period.

(d) ~~For economic revitalization areas that are not residentially distressed areas;~~ **For an area designated as an economic revitalization area after June 30, 2000, that is not a residentially distressed area,** the designating body shall determine ~~whether the~~ **number of years for which** the property owner is entitled to a deduction. ~~for three (3) years; six (6) years; or ten (10) years.~~ **However, the deduction may not be allowed for more than ten (10) years.** This determination shall be made:

- (1) as part of the resolution adopted under section 2.5 of this chapter; or
- (2) by resolution adopted within sixty (60) days after receiving a copy of a property owner's certified deduction application from the county auditor. A certified copy of the resolution shall be sent to the county auditor who shall make the deduction as provided in section 5 of this chapter.

A determination about ~~whether~~ the **number of years the** deduction is ~~three (3), six (6), or ten (10) years~~ **allowed** that is made under subdivision (1) is final and may not be changed by following the procedure under subdivision (2).

(e) Except for deductions related to redevelopment or rehabilitation of real property in a county containing a consolidated city or a deduction related to redevelopment or rehabilitation of real property initiated before December 31, 1987, in areas designated as economic revitalization areas before that date, a deduction for the redevelopment or rehabilitation of real property may not be approved for the following facilities:

- (1) Private or commercial golf course.
- (2) Country club.
- (3) Massage parlor.
- (4) Tennis club.
- (5) Skating facility (including roller skating, skateboarding, or ice skating).

- (6) Racquet sport facility (including any handball or racquetball court).
- (7) Hot tub facility.
- (8) Suntan facility.
- (9) Racetrack.
- (10) Any facility the primary purpose of which is:
 - (A) retail food and beverage service;
 - (B) automobile sales or service; or
 - (C) other retail;
 unless the facility is located in an economic development target area established under section 7 of this chapter.
- (11) Residential, unless:
 - (A) the facility is a multifamily facility that contains at least twenty percent (20%) of the units available for use by low and moderate income individuals;
 - (B) the facility is located in an economic development target area established under section 7 of this chapter; or
 - (C) the area is designated as a residentially distressed area.
- (12) A package liquor store that holds a liquor dealer's permit under IC 7.1-3-10 or any other entity that is required to operate under a license issued under IC 7.1. However, this subdivision does not apply to an applicant that:
 - (A) was eligible for tax abatement under this chapter before July 1, 1995; or
 - (B) is described in IC 7.1-5-7-11.

SECTION 5. IC 6-1.1-12.1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 4. (a) Except as provided in section 2(i)(4) of this chapter, the amount of the deduction which the property owner is entitled to receive under section 3 of this chapter for a particular year equals the product of:

- (1) the increase in the assessed value resulting from the rehabilitation or redevelopment; multiplied by
 - (2) the percentage prescribed in the table set forth in subsection (d).
- (b) The amount of the deduction determined under subsection (a) shall be adjusted in accordance with this subsection in the following circumstances:
- (1) If a general reassessment of real property occurs within the

particular period of the deduction, the amount determined under subsection (a)(1) shall be adjusted to reflect the percentage increase or decrease in assessed valuation that resulted from the general reassessment.

(2) If an appeal of an assessment is approved that results in a reduction of the assessed value of the redeveloped or rehabilitated property, the amount of any deduction shall be adjusted to reflect the percentage decrease that resulted from the appeal.

The state board of tax commissioners shall adopt rules under IC 4-22-2 to implement this subsection.

(c) Property owners who had an area designated an urban development area pursuant to an application filed prior to January 1, 1979, are only entitled to the deduction for the first through the fifth years as provided in subsection ~~(d)(3)~~: **(d)(10)**. In addition, property owners who are entitled to a deduction under this chapter pursuant to an application filed after December 31, 1978, and before January 1, 1986, are entitled to a deduction for the first through the tenth years, as provided in subsection ~~(d)(3)~~: **(d)(10)**.

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

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

YEAR OF DEDUCTION	PERCENTAGE
1st	100%

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

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	50%

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

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	66%
3rd	33%

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

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

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

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

~~(2)~~ **(6) For deductions allowed over a six (6) year period:**

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	85%
3rd	66%
4th	50%
5th	34%
6th	17%

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

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

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

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

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

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	88%
3rd	77%

4th	66%
5th	55%
6th	44%
7th	33%
8th	22%
9th	11%

~~(3)~~ **(10)** For deductions allowed over a ten (10) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	95%
3rd	80%
4th	65%
5th	50%
6th	40%
7th	30%
8th	20%
9th	10%
10th	5%

SECTION 6. IC 6-1.1-12.1-4.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 4.5. (a) For purposes of this section, "personal property" means personal property other than inventory (as defined in IC 6-1.1-3-11(a)).

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

- (1) A description of the new manufacturing equipment **or new research and development equipment, or both**, that the person proposes to acquire.
- (2) With respect to:
 - (A)** new manufacturing equipment not used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products; **and**

(B) new research and development equipment;

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

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

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

With the approval of the state board of tax commissioners, the statement of benefits may be incorporated in a designation application. Notwithstanding any other law, a statement of benefits is a public record that may be inspected and copied under IC 5-14-3-3.

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

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

(2) With respect to:

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

(B) new research and development equipment;

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

(3) Whether the estimate of the annual salaries of those individuals who will be employed or whose employment will be

retained can be reasonably expected to result from the proposed installation of new manufacturing equipment **or new research and development equipment, or both.**

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

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

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

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

(d) Except as provided in subsection (f), an owner of new manufacturing equipment whose statement of benefits is approved before May 1, 1991, is entitled to a deduction from the assessed value of that equipment for a period of five (5) years. Except as provided in subsections (f) and (i), an owner of new manufacturing equipment **or new research and development equipment, or both**, whose statement of benefits is approved after ~~April 30, 1991~~, **June 30, 2000**, is entitled to a deduction from the assessed value of that equipment for ~~a period of five (5) years or ten (10) the number of years as~~ determined by the designating body under subsection (h). Except as provided in subsections (f) and (g) and in section 2(i)(3) of this chapter, the amount of the deduction that an owner is entitled to for a particular year equals the product of:

- (1) the assessed value of the new manufacturing equipment **or new research and development equipment, or both**, in the year that the equipment is installed; multiplied by
- (2) the percentage prescribed in the table set forth in subsection (e).

(e) The percentage to be used in calculating the deduction under

subsection (d) is as follows:

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

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

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

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

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

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

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

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

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

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	95% 80%
3rd	80% 60%
4th	65% 40%
5th	50% 20%
6th and thereafter	0%

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

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

6th	25%
7th and thereafter	0%

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

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

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

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

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

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

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

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	95% 90%
3rd	90% 80%
4th	85% 70%
5th	80% 60%
6th	70% 50%
7th	55% 40%
8th	40% 30%
9th	30% 20%
10th	25% 10%
11th and thereafter	0%

(f) Notwithstanding subsections (d) and (e), a deduction under this section is not allowed in the first year the deduction is claimed for new manufacturing equipment **or new research and development equipment, or both**, to the extent that it would cause the assessed value of all of the personal property of the owner in the taxing district in which the equipment is located (excluding personal property that is assessed as construction in process) to be less than the assessed value of all of the personal property of the owner in that taxing district (excluding personal property that is assessed as construction in process) in the immediately preceding year.

(g) If a deduction is not fully allowed under subsection (f) in the first year the deduction is claimed, then the percentages specified in subsection (d) or (e) apply in the subsequent years to the amount of deduction that was allowed in the first year.

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

- (1) as part of the resolution adopted under section 2.5 of this chapter; or
- (2) by resolution adopted within sixty (60) days after receiving a copy of a property owner's certified deduction application from

the state board of tax commissioners. A certified copy of the resolution shall be sent to the county auditor and the state board of tax commissioners.

A determination about ~~whether~~ the **number of years the deduction is for a period of five (5) or ten (10) years allowed** that is made under subdivision (1) is final and may not be changed by following the procedure under subdivision (2).

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

- (1) is convicted of a violation under IC 13-7-13-3 (repealed), IC 13-7-13-4 (repealed), or IC 13-30-6; or
- (2) is subject to an order or a consent decree with respect to property located in Indiana based on a violation of a federal or state rule, regulation, or statute governing the treatment, storage, or disposal of hazardous wastes that had a major or moderate potential for harm.

SECTION 7. IC 6-1.1-12.1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 5. (a) A property owner who desires to obtain the deduction provided by section 3 of this chapter must file a certified deduction application, on forms prescribed by the state board of tax commissioners, with the auditor of the county in which the property is located. Except as otherwise provided in subsection (b) or (e), the deduction application must be filed before May 10 of the year in which the addition to assessed valuation is made.

(b) If notice of the addition to assessed valuation or new assessment for any year is not given to the property owner before April 10 of that year, the deduction application required by this section may be filed not later than thirty (30) days after the date such a notice is mailed to the property owner at the address shown on the records of the township assessor.

(c) The deduction application required by this section must contain the following information:

- (1) The name of the property owner.
- (2) A description of the property for which a deduction is claimed in sufficient detail to afford identification.
- (3) The assessed value of the improvements before rehabilitation.

(4) The increase in the assessed value of improvements resulting from the rehabilitation.

(5) The assessed value of the new structure in the case of redevelopment.

(6) The amount of the deduction claimed for the first year of the deduction.

(7) If the deduction application is for a deduction in a residentially distressed area, the assessed value of the improvement or new structure for which the deduction is claimed.

(d) A deduction application filed under subsection (a) or (b) is applicable for the year in which the addition to assessed value or assessment of a new structure is made and in the ~~immediate~~ following ~~two (2); four (4); five (5); or nine (9) years whichever is applicable;~~ **the deduction is allowed** without any additional deduction application being filed. However, property owners who had an area designated an urban development area pursuant to a deduction application filed prior to January 1, 1979, are only entitled to a deduction for a five (5) year period. In addition, property owners who are entitled to a deduction under this chapter pursuant to a deduction application filed after December 31, 1978, and before January 1, 1986, are entitled to a deduction for a ten (10) year period.

(e) A property owner who desires to obtain the deduction provided by section 3 of this chapter but who has failed to file a deduction application within the dates prescribed in subsection (a) or (b) may file a deduction application between March 1 and May 10 of a subsequent year which shall be applicable for the year filed and the subsequent years without any additional deduction application being filed for the amounts of the deduction which would be applicable to such years pursuant to section 4 of this chapter if such a deduction application had been filed in accordance with subsection (a) or (b).

(f) On verification of the correctness of a deduction application by the assessor of the township in which the property is located, the county auditor shall act as follows:

(1) If a determination about ~~whether the deduction is three (3); six (6); or ten (10)~~ **the number of years the deduction is allowed** has been made in the resolution adopted under section 2.5 of this chapter, the county auditor shall make the appropriate deduction.

(2) If a determination about ~~whether the deduction is three (3); six~~

~~(6), or ten (10)~~ **the number of years the deduction is allowed** has not been made in the resolution adopted under section 2.5 of this chapter, the county auditor shall send a copy of the deduction application to the designating body. Upon receipt of the resolution stating ~~whether~~ **the number of years the deduction will be allowed, for three (3), six (6), or ten (10) years**, the county auditor shall make the appropriate deduction.

(3) If the deduction application is for rehabilitation or redevelopment in a residentially distressed area, the county auditor shall make the appropriate deduction.

(g) The amount and period of the deduction provided for property by section 3 of this chapter are not affected by a change in the ownership of the property if the new owner of the property:

(1) continues to use the property in compliance with any standards established under section 2(g) of this chapter; and

(2) files an application in the manner provided by subsection (e).

(h) The township assessor shall include a notice of the deadlines for filing a deduction application under subsections (a) and (b) with each notice to a property owner of an addition to assessed value or of a new assessment.

SECTION 8. IC 6-1.1-12.1-5.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 5.5. (a) A person that desires to obtain the deduction provided by section 4.5 of this chapter must file a certified deduction application on forms prescribed by the state board of tax commissioners with:

(1) the auditor of the county in which the new manufacturing equipment **or new research and development equipment, or both,** is located; and

(2) the state board of tax commissioners.

A person that timely files a personal property return under IC 6-1.1-3-7(a) for the year in which the new manufacturing equipment **or new research and development equipment, or both,** is installed must file the application between March 1 and May 15 of that year. A person that obtains a filing extension under IC 6-1.1-3-7(b) for the year in which the new manufacturing equipment **or new research and development equipment, or both,** is installed must file the application between March 1 and June 14 of that year.

(b) The deduction application required by this section must contain

the following information:

- (1) The name of the owner of the new manufacturing equipment **or new research and development equipment, or both.**
- (2) A description of the new manufacturing equipment **or new research and development equipment, or both.**
- (3) Proof of the date the new manufacturing equipment **or new research and development equipment, or both,** was installed.
- (4) The amount of the deduction claimed for the first year of the deduction.

(c) This subsection applies to a deduction application with respect to new manufacturing equipment **or new research and development equipment, or both,** for which a statement of benefits was initially approved after April 30, 1991. If a determination about ~~whether the~~ **number of years** the deduction is ~~for a period of five (5) or ten (10) years allowed~~ has not been made in the resolution adopted under section 2.5 of this chapter, the county auditor shall send a copy of the deduction application to the designating body and the designating body shall adopt a resolution under section 4.5(h)(2) of this chapter.

(d) A deduction application must be filed under this section in the year in which the new manufacturing equipment **or new research and development equipment, or both,** is installed and in each of the immediately succeeding ~~four (4) or nine (9) years whichever is applicable.~~ **the deduction is allowed.**

(e) The state board of tax commissioners shall review and verify the correctness of each deduction application and shall notify the county auditor of the county in which the property is located that the deduction application is approved or denied or that the amount of the deduction is altered. Upon notification of approval of the deduction application or of alteration of the amount of the deduction, the county auditor shall make the deduction. The county auditor shall notify the county property tax assessment board of appeals of all deductions approved under this section.

(f) If the ownership of new manufacturing equipment **or new research and development equipment, or both,** changes, the deduction provided under section 4.5 of this chapter continues to apply to that equipment if the new owner:

- (1) continues to use the equipment in compliance with any standards established under section 2(g) of this chapter; and

(2) files the deduction applications required by this section.

(g) The amount of the deduction is the percentage under section 4.5 of this chapter that would have applied if the ownership of the property had not changed multiplied by the assessed value of the equipment for the year the deduction is claimed by the new owner.

(h) If a person desires to initiate an appeal of the state board of tax commissioners' final determination, the person must do all of the following not more than forty-five (45) days after the state board of tax commissioners gives the person notice of the final determination:

- (1) File a written notice with the state board of tax commissioners informing the board of the person's intention to appeal.
- (2) File a complaint in the tax court.
- (3) Serve the attorney general and the county auditor with a copy of the complaint.

SECTION 9. IC 6-1.1-12.1-5.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 5.6. (a) This subsection applies to a property owner whose statement of benefits was approved under section 4.5 of this chapter before July 1, 1991. In addition to the requirements of section 5.5(b) of this chapter, a deduction application filed under section 5.5 of this chapter must contain information showing the extent to which there has been compliance with the statement of benefits approved under section 4.5 of this chapter. Failure to comply with a statement of benefits approved before July 1, 1991, may not be a basis for rejecting a deduction application.

(b) This subsection applies to a property owner whose statement of benefits was approved under section 4.5 of this chapter after June 30, 1991. In addition to the requirements of section 5.5(b) of this chapter, a property owner who files a deduction application under section 5.5 of this chapter must provide the county auditor and the designating body with information showing the extent to which there has been compliance with the statement of benefits approved under section 4.5 of this chapter.

(c) Notwithstanding IC 5-14-3 and IC 6-1.1-35-9, the following information is a public record if filed under this section:

- (1) The name and address of the taxpayer.
- (2) The location and description of the new manufacturing equipment **or new research and development equipment, or both**, for which the deduction was granted.

(3) Any information concerning the number of employees at the facility where the new manufacturing equipment **or new research and development equipment, or both**, is located, including estimated totals that were provided as part of the statement of benefits.

(4) Any information concerning the total of the salaries paid to those employees, including estimated totals that were provided as part of the statement of benefits.

(5) Any information concerning the amount of solid waste or hazardous waste converted into energy or other useful products by the new manufacturing equipment.

(6) Any information concerning the assessed value of the new manufacturing equipment **or new research and development equipment, or both**, including estimates that were provided as part of the statement of benefits.

(d) The following information is confidential if filed under this section:

(1) Any information concerning the specific salaries paid to individual employees by the owner of the new manufacturing equipment **or new research and development equipment, or both**.

(2) Any information concerning the cost of the new manufacturing equipment **or new research and development equipment, or both**.

SECTION 10. IC 6-1.1-12.1-5.8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 5.8. In lieu of providing the statement of benefits required by section 3 or 4.5 of this chapter and the additional information required by section 5.1 or 5.6 of this chapter, the designating body may, by resolution, waive the statement of benefits if the designating body finds that the purposes of this chapter are served by allowing the deduction and the property owner has, during the thirty-six (36) months preceding the first assessment date to which the waiver would apply, installed new manufacturing equipment **or new research and development equipment, or both**, or developed or rehabilitated property at a cost of at least ten million dollars (\$10,000,000) as determined by the state board of tax commissioners.

SECTION 11. IC 6-1.1-12.1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 8. (a) ~~No~~ **Not** later than

December 31 of each year, the county auditor shall publish the following in a newspaper of general interest and readership and not one of limited subject matter:

(1) A list of the approved deduction applications that were filed under this chapter during that year. The list must contain the following:

(A) The name and address of each person approved for or receiving a deduction that was filed for during the year.

(B) The amount of each deduction that was filed for during the year.

(C) The number of years for which each deduction that was filed for during the year will be available.

(D) The total amount for all deductions that were filed for and granted during the year.

(2) The total amount of all deductions for real property that were in effect under section 3 of this chapter during the year.

(3) The total amount of all deductions for new manufacturing equipment **or new research and development equipment, or both**, that were in effect under section 4.5 of this chapter during the year.

(b) The county auditor shall file the information described in subsection (a)(2) and (a)(3) with the state board of tax commissioners not later than December 31 of each year.

SECTION 12. IC 6-1.1-12.1-11.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 11.3. (a) This section applies only to the following requirements under section 3 of this chapter:

(1) Failure to provide the completed statement of benefits form to the designating body before the hearing required by section 2.5(c) of this chapter.

(2) Failure to submit the completed statement of benefits form to the designating body before the initiation of the redevelopment or rehabilitation or the installation of new manufacturing equipment **or new research and development equipment, or both**, for which the person desires to claim a deduction under this chapter.

(3) Failure to designate an area as an economic revitalization area before the initiation of the:

(A) redevelopment;

(B) installation of new manufacturing equipment **or new research and development equipment, or both;** or

(C) rehabilitation;

for which the person desires to claim a deduction under this chapter.

(4) Failure to make the required findings of fact before designating an area as an economic revitalization area or authorizing a deduction for new manufacturing equipment **or new research and development equipment, or both,** under section 2, 3, or 4.5 of this chapter.

(b) This section does not grant a designating body the authority to exempt a person from filing a statement of benefits or exempt a designating body from making findings of fact.

(c) A designating body may by resolution waive noncompliance described under subsection (a) under the terms and conditions specified in the resolution. Before adopting a waiver under this subsection, the designating body shall conduct a public hearing on the waiver.

SECTION 13. IC 6-3.1-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 30, 1999]: Sec. 6. Notwithstanding the other provisions of this chapter, a taxpayer is not entitled to a credit for Indiana qualified research expense incurred after December 31, ~~1999~~ **2002**. Notwithstanding Section 41 of the Internal Revenue Code, the termination date in Section 41(h) of the Internal Revenue Code does not apply to a taxpayer who is eligible for the credit under this chapter for the taxable year in which the Indiana qualified research expense is incurred.

SECTION 14. **An emergency is declared for this act.**

P.L.5-2000

[S.33. Approved December 1, 1999.]

AN ACT to amend the Indiana Code concerning insurance.

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

SECTION 1. IC 27-9-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. Proceedings under this article apply to the following:

- (1) All insurers who are doing, or who have done, insurance business in Indiana, and against whom claims arising from that business may exist.
- (2) All insurers who purport to do insurance business in Indiana.
- (3) All insurers who have insureds resident in Indiana.
- (4) All other persons organized or in the process of organizing with the intent to do an insurance business in Indiana.
- (5) All nonprofit service plans, fraternal benefit societies, and beneficial societies.
- (6) All title insurance companies.
- (7) All health maintenance organizations under IC 27-13.
- (8) All multiple employer welfare arrangements under IC 27-1-34.
- (9) All limited service health maintenance organizations under IC 27-13-34.

(10) All mutual insurance holding companies under IC 27-14.

SECTION 2. IC 27-9-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) Whenever the commissioner has reasonable cause to believe, and determines, after a hearing held under IC 4-21.5-3, that any domestic insurer has committed or engaged in, or is about to commit or engage in, any act, practice, or transaction that would subject it to a delinquency proceeding under IC 27-9-3-1 or IC 27-9-3-6, the commissioner may make and serve upon the insurer and any other persons involved, any orders reasonably necessary to correct, eliminate, or remedy that conduct, condition, or ground.

(b) If the commissioner has reasonable cause to believe that any domestic insurer is in such condition as to render the continuance of its business hazardous to the public or to holders of its policies or certificates of insurance, or if that domestic insurer gives its consent, the commissioner shall upon his determination issue an order:

- (1) notifying the insurer of his determination; and
- (2) providing the insurer with a written list of the commissioner's requirements to correct its business practices.

(c) If the commissioner makes a determination to supervise an insurer subject to an order under subsection (a) or (b), the commissioner shall notify the insurer that it is under the supervision of the commissioner. **If the insurer is a reorganized insurer under IC 27-14, the commissioner may also determine to supervise the mutual insurance holding company that is affiliated with the reorganized insurer, regardless of whether another basis exists for supervising the mutual insurance holding company. If the commissioner makes a determination to supervise a mutual insurance holding company, the commissioner shall notify the mutual insurance holding company that it is under the supervision of the commissioner.**

(d) During the period of supervision, the commissioner may appoint a supervisor to supervise the insurer. The order appointing a supervisor must direct the supervisor to enforce orders issued under subsection (a) or (b). The order may also provide that the insurer may not do any of the following things, during the period of supervision, without the prior approval of the commissioner or his supervisor:

- (1) Dispose of, convey, or encumber any of its assets or its business in force.
- (2) Withdraw funds from any of its bank accounts.
- (3) Lend any of its funds.
- (4) Invest any of its funds.
- (5) Transfer any of its property.
- (6) Incur any debt, obligation, or liability.
- (7) Merge or consolidate with another company.
- (8) Enter into any new reinsurance contract or agreement.
- (9) Restrict the writing of new business on the renewal of existing business.

(e) Any insurer subject to an order under this section must comply

with the lawful requirements of the commissioner and, if placed under supervision, has sixty (60) days from the date the supervision order is served within which to comply with the requirements of the commissioner. In the event of the insurer's failure to comply within those time requirements, the commissioner may institute proceedings under IC 27-9-3-1 or IC 27-9-3-6 to have a rehabilitator or liquidator appointed, or extend the period of supervision.

(f) During the period of supervision, the insurer may request the commissioner to review any action taken or proposed to be taken by the supervisor, specifying the reason the action complained of is believed not to be in the best interest of the insurer.

(g) If a person violates a supervision order issued under this section, he is civilly liable up to ten thousand dollars (\$10,000).

(h) The commissioner may apply for and the Marion County circuit court may grant, under IC 4-21.5-6, orders as are necessary and proper to enforce a supervision order.

(i) In the event that a person subject to this article knowingly violates any valid order of the commissioner issued under this section and, as a result of that violation, the net worth of the insurer is reduced or the insurer suffers loss it would not otherwise have suffered, that person is personally liable to the insurer for the amount of that reduction or loss. The commissioner or supervisor is authorized to bring an action on behalf of the insurer in the Marion County circuit court to recover the amount of the reduction or loss together with any costs.

SECTION 3. IC 27-9-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. The commissioner may apply by petition to the Marion County circuit court for an order authorizing him to rehabilitate a domestic insurer or an alien insurer domiciled in Indiana on any one (1) of the following grounds:

- (1) The insurer is in a condition that the further transaction of business would be hazardous, financially, to its policyholders, creditors, or the public.
- (2) There is reasonable cause to believe that there has been embezzlement from the insurer, wrongful sequestration or diversion of the insurer's assets, forgery or fraud affecting the insurer, or other illegal conduct in, by, or with respect to the insurer that if established would endanger assets in an amount

threatening the solvency of the insurer.

(3) The insurer has failed to remove any person who in fact has executive authority in the insurer, whether an officer, manager, general agent, employee, or other person, if the person has been found after notice and hearing by the commissioner under IC 4-21.5-3 to be dishonest or untrustworthy in a way affecting the insurer's business.

(4) Control of the insurer, whether by stock ownership or otherwise, and whether direct or indirect, is in a person found after notice and hearing under IC 4-21.5-3 to be untrustworthy.

(5) Any person who in fact has executive authority in the insurer, whether an officer, manager, general agent, director or trustee, employee, or other person, has refused to be examined under oath by the commissioner concerning its affairs, whether in Indiana or elsewhere, and after reasonable notice of the fact the insurer has failed promptly and effectively to terminate the employment and status of the person and all his influence on management.

(6) After demand by the commissioner under this article or IC 27-1-3, the insurer has failed to promptly make available for examination any of its own property, books, accounts, documents, or other records, or those of any subsidiary or related company within the control of the insurer, or those of any person having executive authority in the insurer so far as they concern the insurer.

(7) Without first obtaining the written consent of the commissioner, the insurer has transferred, or attempted to transfer, in a manner contrary to IC 27-1-23 or IC 27-6, substantially all of its entire property or business, or has entered into any transaction the effect of which is to merge, consolidate, or reinsure substantially its entire property or business in or with the property or business of any other person.

(8) The insurer or its property has been or is the subject of an application for the appointment of a receiver, trustee, custodian, conservator, or sequestrator or similar fiduciary of the insurer or its property otherwise than as authorized under this title, and the appointment has been made or is imminent, and the appointment might:

(A) remove the insurer from the jurisdiction of the Indiana

courts; or

(B) prejudice orderly delinquency proceedings under this article.

(9) Within the previous four (4) years the insurer has willfully violated its charter or articles of incorporation, its bylaws, this title, or any valid order of the commissioner under IC 27-9-2-1.

(10) The insurer has failed to pay within sixty (60) days after the due date any obligation to any state or any political subdivision of any state or any judgment entered in any state, if the court in which the judgment was entered had jurisdiction over the subject matter. However, nonpayment shall not be a ground until sixty (60) days after any good faith effort by the insurer to contest the obligation has been terminated, whether it is before the commissioner or in the courts, or the insurer has systematically attempted to compromise or renegotiate previously agreed settlements with its creditors on the ground that it is financially unable to pay its obligations in full.

(11) The insurer has failed to file its annual report or other financial report required by law and, after written demand by the commissioner, has failed to immediately give an adequate explanation.

(12) The board of directors or the holders of a majority of the shares entitled to vote, or a majority of those individuals entitled to the control of those entities, request or consent to rehabilitation under this article.

(13) The insurer is a mutual insurance holding company under IC 27-14 and a reorganized insurance company that is affiliated with the mutual insurance holding company and is or has been the subject of a petition for an order authorizing the commissioner to rehabilitate the reorganized insurance company under this section or to liquidate the reorganized insurance company under section 6 of this chapter, regardless of whether another basis exists for petitioning for rehabilitation of the mutual insurance holding company.

SECTION 4. IC 27-14 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

ARTICLE 14. MUTUAL INSURANCE HOLDING COMPANY

LAW**Chapter 1. General Provisions and Definitions**

Sec. 1. This article may be referred to as the Indiana mutual insurance holding company law.

Sec. 2. (a) The requirements of this section constitute the "members' surplus protection principle" for purposes of this article.

(b) The MIHC must at all times have the voting power and economic interests required by IC 27-14-5-1.

(c) The aggregate value of the members' interests in an MIHC shall be protected from dilution as a result of sales of stock of a reorganized insurer or stock holding company to persons other than the MIHC through compliance with the requirements of IC 27-14-5-6, IC 27-14-5-7, IC 27-14-5-8, and IC 27-14-6-5.

(d) Dividends paid on participating policies shall be protected as provided by IC 27-14-3-11.

(e) An MIHC, stock holding company, and reorganized insurer must have outside directors as required by IC 27-14-3-5.

(f) The officers and directors of the MIHC and any subsidiary of the MIHC are subject to the restrictions on stock ownership set forth in IC 27-14-5-2, IC 27-14-5-3, and IC 27-14-5-9.

(g) Dividends paid on the equity securities of a stock holding company or reorganized insurer may be paid only in accordance with IC 27-14-3-11.

(h) Compensation payable to directors and executive officers of an MIHC, stock holding company, or reorganized insurer may be paid only in accordance with IC 27-14-3-12.

(i) Operations outside the ordinary course of the insurance business may be conducted only as provided in IC 27-14-3-13.

Sec. 3. The definitions set forth in this chapter apply throughout this article.

Sec. 4. (a) Subject to subsection (b), "acting in concert" means:

- (1)** a knowing participation in a joint activity whether or not under an express agreement;
- (2)** interdependent conscious parallel action toward a common goal under an express agreement or otherwise; or
- (3)** a combination or pooling of voting interests or other interests in the securities of any person for a common purpose under any contract, understanding, relationship, agreement,

or other arrangement, written or otherwise.

(b) An employee benefit plan is acting in concert with:

(1) its trustee; or

(2) a person who serves in a capacity similar to a trustee;

solely for the purpose of determining whether capital stock held by the trustee or the person in a similar capacity and capital stock held by the plan will be aggregated.

Sec. 5. "Adoption date" means, with respect to a plan, the date on which the board of directors approves a plan of reorganization or a plan to issue stock.

Sec. 6. "Affiliate" means a person who, directly or indirectly:

(1) controls;

(2) is controlled by; or

(3) is under common control with;

another person.

Sec. 7. "Applicant" means, with respect to a plan, a person that has submitted a plan to the commissioner under this article.

Sec. 8. (a) Subject to subsection (b), "associate" means any of the following:

(1) With respect to a particular person, corporation, business entity, or other organization (other than the applicant or an affiliate of the applicant) for which the person is:

(A) an officer;

(B) a partner; or

(C) directly or indirectly the beneficial owner of at least ten percent (10%) of any class of equity securities.

(2) With respect to an individual who is a director or an officer of the applicant or of any of the applicant's affiliates, a:

(A) spouse; or

(B) member of the immediate family sharing the same household.

(3) With respect to a particular person, a trust or other estate in which the person has a substantial beneficial interest or for which the person serves as trustee or in a similar fiduciary capacity.

(b) The term does not apply to a person that:

(1) has a beneficial interest in; or

(2) serves as a trustee or in a similar fiduciary capacity for;

an employee benefit plan.

Sec. 9. "Board" means:

- (1) the board of directors of an MIHC, an MIC, a stock holding company, or a reorganized insurer; or**
- (2) another board or committee that is responsible under the articles or bylaws of the company for decisions involving the structure or management of an MIHC, MIC, stock holding company, or reorganized insurer.**

Sec. 10. "Commissioner" refers to the insurance commissioner appointed under IC 27-1-1-2.

Sec. 11. "Company" means any of the following:

- (1) An MIC.**
- (2) An MIHC.**
- (3) A stock holding company.**
- (4) A reorganized insurer.**

Sec. 12. "Disinterested director" means a director of an MIHC who does not hold, directly or indirectly, a material ownership interest in any subsidiary.

Sec. 13. "Effective date" means, with respect to a plan, the date on which the plan becomes effective under this article.

Sec. 14. "Eligible member" means, with respect to a plan, a person who is a member of an MIC or MIHC, as applicable, on the adoption date of a plan and:

- (1) solely for purposes of receipt of notice of and voting at a meeting of members on a plan of reorganization, continues to be a member of the MIC on the record date for the meeting of members; or**
- (2) solely for purposes of eligibility to receive stock subscription rights under a plan to issue stock, continues to be a member of the MIC or MIHC, as applicable, on the date the commissioner approves the plan to issue stock.**

Sec. 15. "Employee benefit plan" means an employee benefit plan established by an MIHC or by one (1) or more of the subsidiaries of an MIHC for the sole benefit of its:

- (1) employees; or**
- (2) sales agents.**

Sec. 16. "Financial services businesses" includes investment banking, commercial banking, industrial banking, savings and loan associations, credit unions, trust companies, other lending and loan

brokerage services, services related to the extension of credit (including but not limited to real estate and personal property appraisal; arranging equity financing; check-guaranty services; collection agency services; asset management, servicing, and collection activities; real estate settlement services; and lease financing transactions), securities broker-dealer and trading services, private placement services, acting as a futures commission merchant, securities underwriting, transactions in bullion, precious metals, and foreign currency, investment advisory services, financial planning services, third party administration of insurance policy claims and accounts receivable, the advance or loan of funds using accounts receivable as collateral, organization and operation of investment companies and mutual funds, employee benefit planning and consultation services, actuarial services, issuance of money orders, savings bonds, and traveler's checks, and other operations and services either closely related to or a proper incident to the foregoing.

Sec. 17. "Immediate family" means any child, stepchild, grandchild, parent, stepparent, grandparent, sibling, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law or sister-in-law, and includes adoptive relationships.

Sec. 18. "Internal Revenue Code" refers to the Internal Revenue Code of 1986, as amended.

Sec. 19. "Material ownership interest" means an ownership interest equal to more than one-half of one percent (0.5%) of the voting securities of the issuer, or a larger percentage as the commissioner may approve.

Sec. 20. "Member" means a person that, according to the:

- (1) records; and
- (2) articles of incorporation and bylaws;

of an MIC or MIHC, as applicable, is a member of the MIC or MIHC, as applicable.

Sec. 21. "Member's interest" means:

- (1) the voting rights of a member provided by law and by the MIC's or MIHC's articles of incorporation and bylaws; and
- (2) the right to receive cash, stock, or other consideration in the event of a conversion to a stock company under IC 27-1 through IC 27-13 or a dissolution under IC 27-1-10, as

provided by those laws and by the MIC's or MIHC's articles of incorporation or bylaws.

Sec. 22. "MIC" refers to a mutual insurance company.

Sec. 23. "MIHC" refers to a mutual insurance holding company.

Sec. 24. "Mutual insurance company" or "MIC" means a mutual insurer that is:

- (1) submitting; or**
- (2) subject to;**

a plan of reorganization or plan to issue stock under this article.

Sec. 25. "Mutual insurance holding company" or "MIHC" means a mutual insurance holding company established under IC 27-14-2.

Sec. 26. "Net income" means an amount equal to the consolidated net income of the company for which the determination is being made, determined in accordance with generally accepted accounting principles on a basis consistent with prior periods, less net realized investment gains (reduced by capital gains tax, if any) on the sale of investments (including real estate) that were held as of the effective date of the plan of reorganization by a former MIC. For purposes of this section, "net realized investment gains" means an amount equal to realized investment gains less realized investment losses (reduced by capital gains tax, if any) for the same accounting period for all investments (including real estate) held as of the effective date of the plan of reorganization as determined in accordance with generally accepted accounting principles on a basis consistent with prior periods. The cumulative total of net realized investment gains after the effective date of the plan of reorganization that are applied to reduce one (1) or more years of net income for the purposes of this section and IC 27-14-3-11(e) shall not exceed the net unrealized investment gains as of the effective date of the plan of reorganization. For purposes of this section, "net unrealized investment gains" mean unrealized investment gains less unrealized investment losses (as adjusted for deferred income taxes) as of the effective date of the plan of reorganization.

Sec. 27. "Ordinary course of the insurance business" includes but is not limited to the following actions and activities of the MIHC and its subsidiaries:

- (1) Operations, practices, and procedures of the company in**

effect prior to the effective date of the plan of reorganization.

(2) Operations, practices, and procedures that are consistent with industry practices and standards used or in effect at any relevant time.

(3) The payment of obligations due under any surplus note issued by the company with the approval of the commissioner.

(4) Expanding the business of any company into other insurance, insurance-related, and financial services businesses.

Any expansion in the ordinary course of the insurance business may be accomplished through acquisition, merger, consolidation, strategic alliance, joint venture, or other business combination.

Sec. 28. (a) "Outside director" means an individual who:

(1) is a member of a board of:

(A) an MIHC;

(B) a stock holding company; or

(C) a reorganized insurer;

(2) is not and has not been within the last three (3) years an officer of, an employee of, or a consultant to the entity or any affiliate of the entity referred to in subdivision (1), of whose board the individual is a member;

(3) with respect to a director of an MIHC that does not, directly or indirectly, own all of the stock of each of its reorganized insurers, is not and has not been within the last three (3) years a director of a stock holding company or a reorganized insurer that is affiliated with the MIHC; and

(4) is not a spouse of or a member of the immediate family who shares the same household with an officer of, an employee of, or a consultant to the entity or any affiliate of the entity referred to in subdivision (1), of whose board the individual is a member.

(b) For purposes of this section, a consultant is an individual who directly derives more than thirty-three percent (33%) of the consultant's income in any calendar year from the MIHC or an affiliate of the MIHC or an associate of a person who derives more than thirty-three percent (33%) of its income in any calendar year from the MIHC or any affiliate of the MIHC.

Sec. 29. "Participating policy" means a policy providing for the distribution of policy dividends.

Sec. 30. "Person" means any of the following:

- (1) An individual.**
- (2) A group of individuals acting in concert.**
- (3) A trust.**
- (4) An association.**
- (5) A partnership.**
- (6) A limited liability company.**
- (7) A corporation.**

Sec. 31. "Plan" means a plan:

- (1) of reorganization; or**
- (2) to issue stock.**

Sec. 32. "Plan of reorganization" means a plan adopted under IC 27-14-2.

Sec. 33. "Plan to issue stock" means a plan to issue shares of a stock holding company or a reorganized insurer adopted under IC 27-14-4.

Sec. 34. "Policy" means a contract providing one (1) or more of the kinds of insurance described in IC 27-1-5-1.

Sec. 35. "Reorganized insurer" means an entity:

- (1) that is a domestic stock insurance company that is owned entirely or in part by an MIHC or a stock holding company; and**
- (2) the policyholders of which may be or are entitled to become members of the MIHC.**

Sec. 36. "Stock holding company" means an entity other than a reorganized insurer and its subsidiaries that:

- (1) is owned entirely or in part, directly or indirectly, by an MIHC; and**
- (2) directly or indirectly owns all or part of the capital stock of a reorganized insurer.**

Sec. 37. "Subsidiary" means, with respect to a particular person, an affiliate of the person that is controlled by the person, either:

- (1) directly; or**
- (2) indirectly through one (1) or more intermediaries.**

Sec. 38. "Voting capital stock" means capital stock whose holder has the right to vote in the election of directors.

Chapter 2. Mutual Insurance Company Reorganization

Sec. 1. (a) A mutual insurance company (MIC) may reorganize

under this chapter as a mutual insurance holding company (MIHC) with one (1) or more subsidiaries after the following have occurred:

- (1) The favorable vote of its board of directors to reorganize.
 - (2) The filing of an application with the commissioner.
 - (3) A notice of a public hearing made to its members and the public.
 - (4) At least one (1) public hearing conducted by the commissioner.
 - (5) The approval of the plan by the commissioner.
 - (6) A favorable vote of the eligible members of the MIC.
 - (7) The issuance of an order of completion by the commissioner.
- (b) The subsidiaries of an MIHC:
- (1) must include at least one (1) reorganized insurer;
 - (2) may include one (1) or more stock holding companies; and
 - (3) may include one (1) or more stock insurance companies, the policyholders of which are not and do not become members of the MIHC.

Sec. 2. The reorganization of an MIC or two (2) or more MICs into an MIHC structure under this chapter may be accomplished by any means approved by the commissioner, including the following:

- (1) The establishment of at least one (1) company.
- (2) The amendment or restatement of the articles and bylaws of any company.
- (3) The transfer or acquisition of any or all of the assets and liabilities or of the stock of any company.
- (4) The merger or consolidation of two (2) or more MICs.
- (5) The merger or consolidation of two (2) or more stock holding companies as part of the merger of two (2) or more MIHCs.
- (6) The merger or consolidation of two (2) or more stock insurance companies.
- (7) The merger of an MIC's membership interests into any existing MIHC, with the continued corporate existence of the reorganized MIC as a reorganized insurer.

Sec. 3. (a) A plan of reorganization must be adopted by the board of directors of the MIC.

(b) For a plan of reorganization to be adopted by the board of directors of an MIC, at least seventy-five percent (75%) of the members of the board of directors must vote in favor of the adoption.

Sec. 4. Within ninety (90) days after the adoption of a plan of reorganization and before a vote on the plan by the members, the company adopting the plan must file with the commissioner an application containing the following:

- (1) A plan of reorganization.**
- (2) The form of the notices to be sent to members under sections 8 and 12(b) of this chapter.**
- (3) A copy of the:**

- (A) proposed articles of incorporation; and**
- (B) bylaws;**

of each company to be formed under the plan, including the reorganized insurer in compliance with the requirements of IC 27-1-6.

- (4) If it is necessary to amend the current articles of incorporation or bylaws of any company that is affected by the plan, a copy of:**

- (A) the proposed articles of amendment or amended and restated articles of incorporation; and**
- (B) amended or restated bylaws;**

of the company, which in the case of each domestic insurance company must comply with the requirements of IC 27-1-8.

- (5) With respect to participating policies and contracts of the reorganized insurer, a description of:**

- (A) the current dividend practices of the MIC; and**
- (B) the dividend practices to be followed by the reorganized insurer following the effective date of reorganization.**

Sec. 5. A plan of reorganization filed with the commissioner under this chapter must meet the following requirements:

- (1) It must describe all significant terms of the proposed reorganization.**
- (2) It must describe in a narrative form any plan to issue stock that may be proposed in connection with the plan of reorganization.**
- (3) It must:**

- (A) describe the reasons for and purposes of the proposed reorganization;**
 - (B) describe the manner in which the reorganization is expected to benefit and serve the best interests of the members; and**
 - (C) include an analysis of the risks and benefits to the MIC and its members of the proposed reorganization, and compare those risks and benefits with the risks and benefits of reasonable alternatives (including demutualization of the MIC) to the reorganization.**
- (4) It must provide that:**
- (A) a member's interest in the MIC becomes a member's interest in the MIHC;**
 - (B) the members' surplus protection principle will govern the actions of the MIHC and its subsidiaries;**
 - (C) a member's interest in the MIHC may not be transferred, assigned, pledged, or alienated in any manner except in connection with a transfer, assignment, pledge, or alienation of the policy from which the member's interest is derived; and**
 - (D) any member's interest in an MIHC will automatically terminate upon the lapse or other termination of the policy from which the member's interest is derived.**
- (5) It must describe how the plan of reorganization is to be effected, including a description of a contemplated transfer, acquisition, or assumption of assets, rights, franchises, interests, debts, liabilities, or other obligations of the applicant and any other company affected by the plan or reorganization.**
- (6) It must describe the:**
- (A) establishment of companies;**
 - (B) amendment or restatement of the articles of incorporation and bylaws of a company; and**
 - (C) merger of companies;**
- that will take place under the plan of reorganization.**
- (7) It must provide a list of:**
- (A) all individuals who are or have been selected to become directors or officers of the MIHC or any company that is a subsidiary of the MIHC; and**

- (B) other individuals who perform or will perform duties customarily performed by a director or officer.**
 - (8) The list prepared under subdivision (7) must include, for each individual on the list:**
 - (A) the individual's principal occupation;**
 - (B) all offices and positions the individual has held in the preceding five (5) years;**
 - (C) any crime of which the individual has been convicted (other than traffic violations) in the preceding ten (10) years;**
 - (D) information concerning any personal bankruptcy of the individual or the individual's spouse during the previous seven (7) years;**
 - (E) information concerning the bankruptcy of any corporation of which the individual was an officer or director during the previous seven (7) years;**
 - (F) information concerning any state or federal securities law allegations against the individual that within the previous ten (10) years resulted in a:**
 - (i) determination that the individual violated the state or federal securities law;**
 - (ii) plea of nolo contendere; or**
 - (iii) consent decree;**
 - (G) information concerning the revocation during the previous ten (10) years of any state or federal license issued to the individual; and**
 - (H) information as to whether the individual was refused a performance or other bond during the previous ten (10) years.**
 - (9) It must provide that any policy of any reorganized insurer that goes into force after the effective date of the reorganization, will provide that:**
 - (A) the owner of the policy; or**
 - (B) another person or persons specified in the:**
 - (i) policy; or**
 - (ii) MIHC's articles of incorporation or bylaws;**
- becomes a member of the MIHC. However, a plan of reorganization may provide that any person who becomes an owner of a policy or who would otherwise become a member**

under a policy issued during a particular period of not more than three (3) years immediately after the effective date of the plan of reorganization will not become a member until after the expiration of that period.

(10) It must provide that, with regard to a policy of the MIC in force on the effective date of the plan of reorganization:

(A) the policy continues to remain in force under the policy's terms as the policy of a reorganized insurer;

(B) the holder of a participating policy continues to have the right to receive policy dividends as provided for in the policy; and

(C) the policyholder's right to benefits, values, guarantees, and other contractual obligations of the MIC continues after the effective date of the plan of reorganization as obligations of the reorganized insurer.

(11) It must describe the nature and content of the report and financial statement to be sent annually to each member following the reorganization.

(12) It must provide that, in the event of proceedings under IC 27-9 involving a reorganized insurer, the assets of the MIHC that is affiliated with the reorganized insurer are available to satisfy the policyholder obligations of the reorganized insurer.

(13) It must provide that the name of the reorganized insurer does not include the term "mutual", except as approved by the commissioner as not being misleading to the policyholders or the public.

(14) It must provide any additional information that the commissioner may request.

Sec. 6. (a) A plan of reorganization that is adopted by the board of directors of the applicant may be:

(1) amended by the board of directors of the applicant:

(A) in response to the comments or recommendations of the commissioner, or any other state or federal agency or entity, before any solicitation of proxies from the members to vote on the plan of reorganization; and

(B) otherwise, with the consent of the commissioner; or

(2) terminated by the board of directors of the applicant:

(A) before notice is sent to the members under section 8 of

this chapter; or

(B) with the consent of the commissioner.

(b) For a plan of reorganization to be:

(1) amended; or

(2) terminated;

by the board of directors of an MIC, at least seventy-five percent (75%) of the members of the board of directors must vote in favor of the amendment or termination.

Sec. 7. (a) The commissioner shall, as soon as practicable after a plan of reorganization is filed with the commissioner but not more than ninety (90) days (or a longer period after the plan is filed as the commissioner determines for good cause), conduct a public hearing under IC 4-22-2-26 to afford interested persons an opportunity to present information, views, arguments, or comments about the plan.

(b) At least thirty (30) days before a hearing held under this section, the commissioner shall publish notice of the hearing in a newspaper of general circulation in:

(1) the city of Indianapolis;

(2) the city in which the principal office of the applicant is located; and

(3) other cities or towns that the commissioner considers appropriate.

The commissioner may provide written notice of the hearing by other means and to other persons that the commissioner considers appropriate.

(c) The notice provided under this section must:

(1) refer to the applicable statutory provisions;

(2) state the date, time, and location of the hearing; and

(3) include a brief statement of the subject of the hearing.

(d) At the discretion of the commissioner or the commissioner's appointee, testimony may be taken under oath or by affirmation at a public hearing under this article.

Sec. 8. The applicant shall, at least thirty (30) days before the public hearing required under this chapter, mail notice of the public hearing to the last known address of each member and policyholder of the MIC as shown on the books of the MIC. The notice must achieve a minimum score of forty (40) on the Flesch reading ease test or an equivalent score on a comparable test

approved by the commissioner. The notice must include the following:

- (1) Reference to the applicable statutory provisions.
- (2) A statement of the date, time, and location of the hearing.
- (3) A brief statement of the subject of the hearing, including specific notice to the member that the member's interest in the MIC will be affected by the reorganization.

Sec. 9. The commissioner may not approve a plan of reorganization submitted under this article unless the applicant has shown, by a preponderance of the evidence, that the plan of reorganization:

- (1) complies with the law;
- (2) includes the disclosures and notices required under this article;
- (3) is fair, reasonable, and equitable to the members and policyholders of the MIC; and
- (4) complies with the members' surplus protection principle.

Sec. 10. (a) Not more than one hundred eighty (180) days after the filing of the application and submission of all other information requested by the commissioner relative to the plan, or a longer period if extended by the commissioner for good cause, the commissioner shall approve or disapprove the plan of reorganization. The commissioner's approval of the plan must be conditioned upon:

- (1) the approval of the plan by the eligible members under this chapter; and
- (2) the requirements of sections 16 and 17 of this chapter.

(b) The commissioner shall fully consider any comments received at the public hearing under IC 4-22-2-27 before issuing an order under subsection (a).

Sec. 11. The commissioner shall notify the applicant upon reaching a decision on a plan of reorganization.

Sec. 12. (a) A plan of reorganization of an MIC must be submitted for approval by the eligible members of the MIC after approval of the application by the commissioner under section 10 of this chapter. A vote by the eligible members to approve the plan must be made at a special or annual meeting held under IC 27-1-7-7 and this chapter.

- (b) The eligible members must be sent notice of the meeting at

which a plan of reorganization will be submitted for approval by eligible members. The notice must:

- (1) be mailed at least thirty (30) days before the meeting;
- (2) refer to the applicable statutory provisions;
- (3) state the date, time, and location of the meeting;
- (4) include or be accompanied by a brief statement of the subject of the meeting, including specific notice to the member that the member's interest in the MIC will be affected by the reorganization;
- (5) include or be accompanied by a copy of the plan or a summary of the plan; and
- (6) describe the member's right to attend and participate in the meeting.

(c) The notice sent under this section must achieve a minimum score of forty (40) on the Flesch reading ease test or an equivalent score on a comparable test approved by the commissioner.

Sec. 13. Notwithstanding IC 27-1-7-9, with respect to a vote under section 12 of this chapter, an eligible member:

- (1) may vote in person or by proxy if the proxy soliciting material:
 - (A) includes reference to the applicable statutory provisions;
 - (B) states the date, time, and location of the meeting;
 - (C) contains a brief statement of the subject of the meeting, including specific notice that the member's interest in the MIC will be affected by the reorganization;
 - (D) was solicited and obtained from the member after the commissioner has approved the plan of reorganization under this article; and
 - (E) was found to be sufficient in the reasonable determination of the commissioner for the eligible members to make an informed decision about the plan of reorganization; and
- (2) is entitled to cast only one (1) vote on the proposed plan of reorganization, regardless of the number of policies or the amount of insurance that the member has with the MIC or any affiliate of the MIC.

Sec. 14. For a plan of reorganization to be approved by the members of an MIC:

- (1) the plan of reorganization must be approved at a meeting at which at least ten percent (10%) of the eligible members are represented in person or by proxy; and
- (2) at least two-thirds (2/3) of the eligible members voting in person or by proxy must vote in favor of the plan.

Sec. 15. Not later than thirty (30) days after members have approved a plan of reorganization at a special or annual meeting of members under this chapter, an applicant must file with the commissioner the minutes of the meeting at which the plan of reorganization was approved.

Sec. 16. (a) Before the commissioner issues a permit for completion of organization under subsection (b):

- (1) a public hearing must have been conducted under this chapter;
- (2) the commissioner must have issued notice to the applicant that the commissioner has approved the plan of reorganization of the applicant under section 10 of this chapter; and
- (3) the commissioner must have received the minutes of the meeting of the members at which the plan was approved reflecting that the plan of reorganization was on the agenda and the plan was approved.

(b) After the events referred to in subsection (a), the commissioner shall issue:

- (1) a permit for completion of organization of the MIHC; and
- (2) in the case of:
 - (A) a newly organized domestic insurance company, a permit for completion of organization as provided in IC 27-1-6-11; or
 - (B) amended articles of incorporation of a domestic insurance company, an amended certificate of authority as provided in IC 27-1-8-9.

Sec. 17. A plan of reorganization is effective when each reorganized insurer and MIHC affected by the plan has filed:

- (1) its articles of incorporation or, if appropriate, its articles of amendment; and
- (2) the certificate of authority and any amended certificate of authority issued to the company by the commissioner under this chapter;

in the office of the county recorder of the county in which the principal office of the company is located, or at any later date specified in the plan of reorganization.

Sec. 18. The organization of a domestic insurance company under a plan of reorganization under this article must be conducted under IC 27-1-6 concerning the formation of domestic insurance companies.

Sec. 19. The amendment of the articles of incorporation of a domestic insurance company under a plan of reorganization under this article must be conducted in compliance with IC 27-1-8.

Chapter 3. Mutual Insurance Holding Companies

Sec. 1. An MIHC organized under this article must meet the requirements of IC 27-14-2.

Sec. 2. The articles of incorporation of an MIHC must contain the following, or provisions at least substantially equivalent to the following:

- (1) The name of the MIHC, which must include the term "mutual" or the abbreviation "MIHC".
- (2) A provision specifying that the MIHC does not have the power to engage in the business of issuing insurance policies or contracts.
- (3) A provision specifying that the MIHC is not authorized to issue voting or any other capital stock.
- (4) A provision setting forth the rights of members of the MIHC in the equity of the MIHC in the event of a conversion to a stock company under Indiana law or a dissolution under IC 27-1-10, including the rights of the members to the assets of the MIHC.
- (5) A provision specifying that:
 - (A) a member of the MIHC is not, as a member, personally liable for the acts, debts, liabilities, or obligations of the MIHC; and
 - (B) no assessment may be imposed upon the members of the MIHC by any person, including:
 - (i) the board of directors, members, or creditors of the MIHC; and
 - (ii) any governmental office or official, including the commissioner;because of any liability of any company or because of any

act, debt, or liability of the MIHC.

Sec. 3. Members of an MIHC have rights and obligations specified in:

- (1) this article; and
- (2) the articles of incorporation and bylaws of the MIHC.

Sec. 4. The MIHC may not make any direct payment of income, dividends, or other distribution of profits to a member of an MIHC with respect to any membership interest in the MIHC, other than as directed or approved by the commissioner.

Sec. 5. (a) At least a majority of the following must be made up of outside directors:

- (1) The board of directors of an MIHC.
- (2) The board of directors of a stock holding company that is not a wholly-owned subsidiary of an MIHC.
- (3) The board of directors of a reorganized insurer that is not a wholly-owned subsidiary of an MIHC.
- (4) Any audit committee or executive committee of the board of directors of:

- (A) an MIHC;
- (B) a stock holding company that is not a wholly-owned subsidiary of an MIHC; or
- (C) a reorganized insurer that is not a wholly-owned subsidiary of an MIHC.

(b) All of the directors who are members of any management compensation committee of the following entities must be outside directors:

- (1) An MIHC.
- (2) A stock holding company that is not a wholly-owned subsidiary of an MIHC.
- (3) A reorganized insurer that is not a wholly-owned subsidiary of an MIHC.

(c) All of the directors who are members of any pricing committee of the following entities with responsibility for approving the price of stock sold in any offering under this article must be outside directors:

- (1) A stock holding company.
- (2) A reorganized insurer.

(d) The commissioner may determine, after furnishing the affected company and director with notice and opportunity to be

heard, that an individual does not qualify as an outside director or otherwise should not be considered an outside director. Such an individual may continue to serve as a director, but from the date the commissioner notifies the affected company in writing of the determination and the basis for the determination, the individual may not be considered an outside director.

(e) A director's failure to qualify as or be considered an outside director does not affect the validity of any action taken by the company, the board of directors, or any committee of the board of directors.

(f) Concurrent with the initial public offering of any securities of a stock holding company or a reorganized insurer, the majority of the members of the board of directors of the MIHC must be disinterested directors.

Sec. 6. (a) Except as provided in subsection (b), an MIHC:

- (1) has and may exercise all the rights and privileges of insurance companies formed under this title; and
- (2) is subject to all the requirements and regulations imposed upon insurance companies formed under this title.

(b) The exceptions referred to in subsection (a) are as follows:

- (1) An MIHC does not have the right or privilege to write insurance (except through an insurance company subsidiary) and is not subject to any requirement or rule adopted under IC 4-22-2 relating to the writing of insurance.
- (2) An MIHC is not subject to the deposit requirement in IC 27-1-6-15(d).
- (3) An MIHC is not subject to any statute or rule adopted under IC 4-22-2 that is imposed upon insurance companies formed under this title to the extent that the statute or rule is in conflict with this article.
- (4) An MIHC is not subject to the investment requirements under IC 27-1-12 or IC 27-1-13 that limit or restrict investments in subsidiaries.
- (5) An MIHC is not subject to risk-based capital requirements under IC 27-1-36.
- (6) An MIHC is not subject to a requirement under IC 27 if the commissioner determines by order or rule adopted by the commissioner under IC 4-22-2 that the requirement does not apply to the MIHC.

Sec. 7. (a) Not later than July 1 of each year, an MIHC shall file with the commissioner an annual statement containing the following information:

(1) Audited financial statements, including:

(A) an income statement;

(B) a balance sheet;

(C) a statement of cash flows; and

(D) footnotes.

(2) Complete information on the status of any condition imposed in connection with the approval of a plan of reorganization.

(3) An investment plan covering all assets of the MIHC.

(4) A statement that the MIHC and its affiliates have complied with section 8 of this chapter.

(5) A statement that describes any changes in the members' interests and the reason for any change in the members' interests.

(b) Not later than July 1 of the first, second, and third years after completion of a reorganization under IC 27-14-2, a reorganized insurer shall file with the commissioner:

(1) a certificate of an actuary stating that the methodology used by the reorganized insurer for any payment of policyholder dividends in the previous year complied with the methodology stated in the plan submitted under IC 27-14-2-4(5) or other methodology approved by the commissioner; and

(2) a certificate of an independent auditor of the reorganized insurer that the calculation of any participating policy dividends paid during the previous year complied with the methodology stated in the plan submitted under IC 27-14-2-4(5) and was accurate.

(c) If the certification of the actuary or auditor required in subsection (b) has not been filed or if the commissioner has other reasonable cause, the commissioner may employ at the expense of the reorganized insurer an independent actuary or auditor, or both, to issue the certifications required in subsection (b).

(d) The requirement to submit the certifications under subsection (b) may be extended by the commissioner beyond the third year after completion of a reorganization under IC 27-14-2:

- (1) by order applicable to a particular recognized insurer if the commissioner determines that further certifications are necessary for the protection of the interests of the policyholders of the reorganized insurer; and
- (2) by rule adopted under IC 4-22-2 if the commissioner determines that further certifications are necessary for the protection of the interests of the policyholders of all reorganized insurers or a particular class of reorganized insurers.

Sec. 8. (a) For the purposes of IC 27-1-23:

- (1) an MIHC and its affiliates constitute an insurance holding company system; and
- (2) an MIHC is considered to be an "insurer".

However, a separate filing or approval is not required under IC 27-1-23 for an acquisition or a reorganization that is included in a plan approved under this article.

(b) For the purpose of this section, a "material transaction" means:

- (1) a transaction described in IC 27-1-23-4(b):
 - (A) between an MIHC and any affiliate; or
 - (B) between any affiliates of an MIHC if the transaction equals or exceeds the percentages of admitted assets or surplus set forth in IC 27-1-23-4(b) of any reorganized insurer of the MIHC; or
- (2) a transaction described in IC 27-1-23-4(b) between an MIHC and any person as specified in a rule adopted by the commissioner under IC 4-22-2 or an order issued by the commissioner.

(c) An MIHC may not enter into a material transaction unless the MIHC has notified the commissioner in writing of its intention to enter into a material transaction at least thirty (30) days before the transaction, or a shorter period as the commissioner may permit, and the commissioner has not disapproved the transaction within that period.

(d) In addition to the requirements of IC 27-1-23-4(a) and IC 27-1-23-4(d), a material transaction must:

- (1) be fair and reasonable to the members of the MIHC; and
- (2) not violate the members' surplus protection principle.

(e) An MIHC and its affiliates may not enter into transactions

that are part of a plan or series of like transactions if the purpose of those separate transactions is to circumvent any rules of the commissioner prohibiting a material transaction or this section.

Sec. 9. The interest of a member in an MIHC does not constitute a security under Indiana law.

Sec. 10. (a) After the effective date of a plan of reorganization, the officers and directors of the MIHC:

(1) owe the same fiduciary responsibilities to members of the MIHC as the officers and directors of the former MIC owed to members of the former MIC; and

(2) are subject to potential liability to members of the MIHC to the same extent as the officers and directors of the former MIC were to members of the former MIC before the effective date of the plan of reorganization.

(b) An action may be brought to recover for the violation of fiduciary responsibilities under this article under IC 34-11-2-4, or, in the case of fraud, under IC 34-11-2-7.

Sec. 11. (a) The reorganized insurer must obtain commissioner approval of the dividend practices with respect to participating policies and contracts in force as of the effective date of the reorganization to be followed by the reorganized insurer as set forth in IC 27-14-2-4(5) if the dividend practices of the reorganized insurer will be different from the dividend practices of the MIC.

(b) The commissioner may require the establishment of a closed block or other mechanism that the commissioner finds to be fair for the protection of MIC policyholder dividends.

(c) The dividend practices of the reorganized insurer, the requirement to establish a closed block or other mechanism, or the terms of the closed block, may be modified after approval under subsection (a) or subsequent to a reorganization under IC 27-14-2 only with the prior approval of the commissioner on application of the reorganized insurer.

(d) Neither a stock holding company nor a reorganized insurer may pay dividends or make other distributions with respect to its stock to its shareholders if the reorganized insurer has failed to pay policyholder dividends in compliance with the dividend practices approved by the commissioner in accordance with this section.

(e) A reorganized insurer or stock holding company of the MIHC that has any shareholder other than the MIHC or a direct

or indirect wholly owned subsidiary of the MIHC may not declare or pay any dividend or other distribution on its capital stock except to the extent of:

- (1) one (1) or more years of net income attributable to the year of or years after the effective date of the plan of reorganization; and
- (2) proceeds from the issuance of capital stock (which as of any date shall be that amount equal to the net proceeds received by the issuer less amounts previously paid out of the net proceeds to stockholders in the form of dividends or other distributions).

Sec. 12. (a) For purposes of this section, "executive officer" has the same meaning as the term is defined by the Securities and Exchange Commission in 17 CFR 240.3b-7.

(b) After the effective date of a reorganization under this article, the compensation of directors or executive officers of a company shall include only those amounts that satisfy any one (1) of the following criteria:

- (1) Amounts that are payable with respect to services rendered before the effective date of the plan of reorganization.
- (2) Amounts that would be deemed to be reasonable compensation by the Internal Revenue Service and therefore allowed as proper expense deductions for federal income tax purposes.
- (3) Amounts that are disclosed to the policyholders in proxy solicitation materials or other written materials approved by the commissioner as part of the notice of the meeting of the members called to approve a plan of reorganization, are approved by the commissioner in principle and concept as part of the approval of the plan of reorganization, and are approved by the commissioner as to specific amount prior to payments after the effective date of the plan of reorganization.
- (4) Amounts that the commissioner deems necessary to preserve the safety and soundness of the stock insurance company subsidiary by enabling it to engage and retain capable employees.
- (5) Amounts payable solely out of net income of the company after the effective date of the plan of reorganization.

Sec. 13. A company may invest and conduct operations in businesses outside the ordinary course of the insurance business only from funds separately raised and net income earned, after the effective date of a plan of reorganization.

Chapter 4. Issuance of Capital Stock

Sec. 1. (a) This chapter applies only to the initial public offering of voting capital stock by a reorganized insurer or stock holding company.

(b) A reorganized insurer or a stock holding company may issue any type of stock permitted by the law under which it is organized. However, a reorganized insurer and a stock holding company may issue shares of stock to a person or entity other than:

- (1) the MIHC of which it is a subsidiary; or**
- (2) a stock holding company or reorganized insurer that is a direct or indirect subsidiary of the MIHC referred to in subdivision (1);**

only in compliance with this article.

Sec. 2. A plan to issue stock under this chapter must be adopted:

- (1) in the case of a plan to issue stock that is concurrent with the formation of the MIHC, by the board of directors of the MIHC; or**
- (2) in the case of a plan to issue shares of stock that is not concurrent with the formation of the MIHC, by the board of directors of the MIHC and reorganized insurer or stock holding company proposing to issue the stock.**

Sec. 3. A board of directors that adopts a plan to issue stock under this chapter may amend or withdraw that plan at any time before the effective date. However, after the commissioner has approved a plan to issue stock, the plan may not be amended unless the commissioner approves the amendment.

Sec. 4. Within ninety (90) days after the adoption of a plan to issue stock, the reorganized insurer or stock holding company adopting the plan must file with the commissioner an application that contains the following:

- (1) A proposed plan to issue stock.**
- (2) A description of the reasons for and purpose of the proposed plan and the manner in which the issuance will benefit the members of the MIHC.**
- (3) If it is necessary to amend the current articles of**

incorporation or bylaws of a company that is affected by the plan, a copy of the proposed articles of amendment and amended bylaws of the company, which in the case of each domestic insurance company must comply with IC 27-1-8.

(4) A list of the officers and directors of a company that is affected by the plan.

(5) A description of:

(A) the stock intended to be offered by the applicant;

(B) all shareholder rights applicable to the stock intended to be offered by the applicant;

(C) the total number of shares authorized to be issued;

(D) the estimated number of shares the applicant intends to offer; and

(E) the intended date or range of dates for the offering.

(6) A list of:

(A) the name of any underwriter, syndicate member, or placement agent involved;

(B) if known by the applicant, the name of each person or group of persons who will control five percent (5%) or more of the total outstanding shares of the class of stock to be offered; and

(C) if any of the persons listed under clause (A) or (B) is a corporation or other business organization, the name of each member of its board of directors or equivalent management body.

(7) A description of all expenses expected to be incurred in connection with the offering.

(8) Any other information requested by the commissioner.

Sec. 5. A plan to issue stock in a public offering (other than an offering solely in connection with a consolidation, merger, share exchange, or other business combination or an offering of stock under a stock option or other employee benefit plan) must do the following:

(1) Provide for each eligible member to receive, without payment, nontransferable subscription rights to purchase a portion of the stock of the applicant.

(2) Specify how subscription rights are to be allocated in whole shares of stock among the eligible members.

(3) Provide a fair and equitable means for allocating shares of

stock in the event of an over-subscription to the shares by eligible members exercising subscription rights received under this chapter.

(4) Provide that any shares of stock not subscribed to by eligible members exercising subscription rights received under this chapter, or not subscribed to by an employee benefit plan or by directors, officers, and employees exercising subscription rights, will be sold:

(A) in a public offering through an underwriter;

(B) through private placement; or

(C) by any other method approved by the commissioner that is fair and equitable to members.

(5) Provide that the MIHC will adopt articles of incorporation or articles of amendment that include a provision prohibiting the MIHC from waiving any dividends from its subsidiaries except after approval of the waiver by the board of directors of the MIHC and by the commissioner.

(6) Establish a pricing committee within the board of directors of the entity making the offering of stock, consisting exclusively of outside directors.

(7) Require that the shares not be issued without the favorable written opinion of the independent financial advisor as required by IC 27-14-6-4.

Sec. 6. Subject to the limitations of IC 27-14-5, a plan to issue stock may do the following:

(1) Provide an allocation without payment of nontransferable subscription rights to purchase not more than ten percent (10%) of the total amount of outstanding stock to one (1) or more employee benefit plans that satisfy the requirements of Section 401(a), 403(b), 404(c), 408, 423, or 501(c)(9) of the Internal Revenue Code, limited to the extent that unsubscribed shares of stock remain after the members have exercised their subscription rights.

(2) Provide for:

(A) the establishment of; and

(B) the allocation of not more than four percent (4%) of the total amount of outstanding stock to;

an employee benefit plan that provides benefits that are subject to taxation under Section 83 of the Internal Revenue

Code or that complies with the requirements of Section 422 of the Internal Revenue Code, for the purpose of granting stock or stock options.

(3) Provide that the articles of incorporation of a subsidiary of the MIHC may, subject to specified exceptions, prohibit a:

(A) person; or

(B) group of persons acting in concert;

acting directly or through associates, from acquiring more than a specified percentage of any class of the issued and outstanding shares of capital stock of the issuing subsidiary.

(4) Provide that the aggregate number of shares of outstanding stock purchased by an eligible member that exercises subscription rights may not exceed:

(A) a specified number of shares equal to at least one percent (1%) of the total number of outstanding shares; or

(B) a specified percentage of not less than one percent (1%) of the total number of outstanding shares.

(5) Provide that subscription rights need not be granted to an eligible member who resides in a foreign country or other jurisdiction for which the commissioner determines that all of the following apply:

(A) A small number of eligible members reside in the jurisdiction.

(B) The granting of subscription rights or the offer or sale of stock to eligible members in the jurisdiction would require the issuer or its officers or directors to:

(i) register, under the security laws of the jurisdiction, as a broker, dealer, salesman, or agent; or

(ii) register, or otherwise qualify, the stock for sale in the jurisdiction.

(C) The registration, qualification, or filing in the judgment of the commissioner would be impracticable or unduly burdensome for reasons of cost or otherwise.

(6) Provide that an eligible member that exercises subscription rights must subscribe for at least a minimum number of shares of stock or a minimum dollar amount of stock unless the commissioner has determined that either minimum is unreasonable based on the respective interests of the issuer of stock and the eligible members.

Sec. 7. Notwithstanding any provision of this article, an MIHC or an affiliate of an MIHC may not use any form of a stock option or other preference with respect to the sale or purchase of any stock or other equity instrument of the MIHC or an affiliate of the MIHC to compensate an officer or director of the MIHC or an affiliate of the MIHC for services in connection with a plan to issue stock.

Sec. 8. Neither a stock holding company nor a reorganized insurer may pay dividends or make other distributions with respect to its stock to its shareholders if the reorganized insurer has failed to pay policyholder dividends under IC 27-14-3-11.

Chapter 5. Restrictions on Capital and Other Stock

Sec. 1. After the effective date of the plan of reorganization, the MIHC must at all times have the direct or indirect:

- (1) power to cast at least fifty-one percent (51%) of the votes on all matters submitted to a vote of the holders of common stock (or any other class of stock entitled to vote generally on matters submitted to security holders for a vote, including the election of directors) of each reorganized insurer and any stock holding company of the MIHC; and**
- (2) ownership of shares of stock entitled to:**
 - (A) receipt of at least fifty-one percent (51%) of all dividends declared on common stock of each reorganized insurer and any stock holding company of the MIHC; and**
 - (B) receipt of at least fifty-one percent (51%) of the net proceeds to common stockholders upon any dissolution of each reorganized insurer and any stock holding company of the MIHC.**

Sec. 2. (a) As used in this section, "CPI adjustment" means the percentage increase or decrease in the Consumer Price Index for Urban Wage Earners and Clerical Workers published monthly by the United States Bureau of Labor Statistics or any successor index published by the United States, as of the end of each calendar year, commencing January 1, 1999.

(b) The CPI adjustment referred to under subsection (c) shall be made by the commissioner as of January 1, 2000, and each year thereafter, based on the CPI adjustment for the preceding year.

(c) The aggregate number of shares of equity securities owned by all of the directors and officers of the MIHC and its affiliates

and associates, excluding any shares acquired by or held for the benefit of the officers and directors and their associates through an employee benefit plan as permitted by IC 27-14-4-6(1) and section 5 of this chapter, may not exceed the following:

(1) Fifteen percent (15%) of the total number of outstanding shares of equity securities of each reorganized insurer and any stock holding company if the total surplus of the MIHC and all of its reorganized insurers is greater than one billion five hundred million dollars (\$1,500,000,000), as adjusted annually by the CPI.

(2) Twenty percent (20%) of the total number of outstanding shares of equity securities of each reorganized insurer and any stock holding company if the total surplus of the MIHC and all of its reorganized insurers is greater than seven hundred fifty million dollars (\$750,000,000), as adjusted annually by the CPI, and less than or equal to one billion five hundred million dollars (\$1,500,000,000), as adjusted annually by the CPI.

(3) Twenty-five percent (25%) of the total number of outstanding shares of equity securities of each reorganized insurer and any stock holding company if the total surplus of the MIHC and all of this reorganized insurers is greater than two hundred fifty million dollars (\$250,000,000), as adjusted annually by the CPI, and less than or equal to seven hundred fifty million dollars (\$750,000,000), as adjusted annually by the CPI.

(4) Thirty percent (30%) of the total number of outstanding shares of equity securities of each reorganized insurer and all of its reorganized insurers is less than or equal to two hundred fifty million dollars (\$250,000,000), as adjusted annually by the CPI.

Sec. 3. The aggregate number of shares of equity securities owned by:

(1) a single director or officer of the MIHC or any subsidiary of the MIHC;

(2) associates of the person referred to in subdivision (1); and

(3) persons acting in concert with the person referred to in subdivision (1) or (2);

may not exceed five percent (5%) of the total number of

outstanding shares of equity securities of each reorganized insurer and any stock holding company excluding any equity securities acquired by or held for the benefit of the officers and directors and their associates through employee benefit plans as permitted by IC 27-14-4-6(1) and section 5 of this chapter, but including any equity securities beneficially owned by officers and directors and their associates under employee benefit plans as provided in IC 27-14-4-6(2).

Sec. 4. A director, officer, agent, or employee of the MIHC or its subsidiaries, or an associate of a director, an officer, an agent, or employee, may not receive a fee, commission, or other valuable consideration for aiding, promoting, or assisting in the issuance of stock under this section, except for:

- (1) compensation as provided for in the plan and approved by the commissioner;
- (2) the person's usual, regular salary or compensation; or
- (3) reasonable fees and compensation paid to an individual who is an attorney, accountant, actuary, or financial adviser for services performed in the individual's independent practice, even if the individual is also a director, an officer, an agent, or an employee of the MIHC or its subsidiaries.

Sec. 5. The aggregate number of shares of stock that may be purchased or held by an employee benefit plan may not exceed ten percent (10%) of the total number of outstanding shares of a reorganized insurer or any stock holding company.

Sec. 6. A reorganized insurer or stock holding company may not issue stock to directors or officers, or both, except stock of a class that is publicly traded.

Sec. 7. A reorganized insurer or stock holding company may not:

- (1) grant stock purchase options or warrants, or otherwise use securities to provide compensation to directors or officers, or both, at a price less than the fair market value of the security on the date of the grant; or
- (2) sell securities to directors or officers, or both, at a price less than the fair market value of the security (except under the exercise of authorized stock options consistent with subdivision (1) and section 8 of this chapter).

Sec. 8. A reorganized insurer or stock holding company may not

grant stock purchase options to directors or officers, or both, until at least six (6) months after public trading for the stock has begun.

Sec. 9. (a) For purposes of determining compliance with ownership restrictions in this chapter, a person to whom a stock purchase option or warrant has been granted under this chapter is not considered to own the underlying securities until the stock purchase option or warrant is exercised and the securities have been issued.

(b) An increase in a person's percentage ownership of securities does not constitute a violation of the securities ownership restrictions in this chapter if the increase in percentage ownership results solely from a decrease in the aggregate number of securities outstanding.

(c) An inadvertent ownership of securities that exceeds the securities ownership limitations in this chapter does not violate this chapter if:

(1) a sufficient number of securities are divested within thirty (30) days after the limitation was first known to be exceeded so that the limitation is no longer exceeded; and

(2) during the period when the limitation is known to have been exceeded, the owner of the securities:

(A) does not vote any securities in excess of the limitation; and

(B) does not accept a dividend in respect of any securities that exceed the limitations.

Chapter 6. Public Hearing, Commissioner Approval, and Effective Date of Plan to Issue Stock

Sec. 1. Not more than:

(1) sixty (60) days after the acceptance of an application filed with respect to a plan to issue stock under IC 27-14-4; or

(2) a longer period after the application is filed, as determined by the commissioner upon a showing of good cause;

the commissioner may conduct a public hearing under IC 4-22-2-26 to afford interested persons an opportunity to present information, views, arguments, or comments about the plan.

Sec. 2. (a) At least thirty (30) days before a hearing held under this chapter, the commissioner shall publish notice of the hearing in a newspaper of general circulation in:

(1) the city of Indianapolis;

(2) the city in which the principal office of the applicant is located; and

(3) another city or cities that the commissioner considers appropriate;

and may provide written notice of the hearing by other means and to other persons that the commissioner considers appropriate.

(b) The notice provided under this section must:

(1) refer to the applicable statutory provisions;

(2) state the date, time, and location of the hearing; and

(3) include a brief statement of the subject of the hearing.

Sec. 3. (a) On or before the later of:

(1) sixty (60) days after a public hearing held under this chapter; or

(2) one hundred twenty (120) days after the commissioner accepts the application relating to the plan;

or a longer period if extended by the commissioner for good cause, the commissioner shall issue an order to approve or disapprove the plan under IC 27-14-4 to issue stock.

(b) The commissioner shall fully consider any comments received at a public hearing under IC 4-22-2-27 before issuing an order under subsection (a).

Sec. 4. (a) The commissioner shall retain an independent financial adviser who shall, on behalf of members, review the offering price and issue a written opinion as to whether the offering price is fair from a financial point of view to the members as a group.

(b) The commissioner's approval of a plan under section 6 of this chapter is subject to the condition that a favorable opinion of the financial adviser is delivered to the commissioner before the stock is issued.

(c) The fees and expenses of the financial adviser shall be paid by the issuer of the stock.

Sec. 5. The commissioner shall approve a plan to issue stock submitted under IC 27-14-4 unless the commissioner makes at least one (1) of the following findings with respect to the plan:

(1) Disapproval of the plan is necessary to prevent practices that will cause financial impairment to the applicant or its subsidiaries.

(2) The financial or management resources of the applicant or

its subsidiaries or affiliates warrant disapproval.

(3) The plan does not comply with this article.

(4) The proposed plan is unfair, unreasonable or inequitable to members or policyholders.

(5) The plan does not comply with the members' surplus protection principle.

Sec. 6. (a) The commissioner shall transmit to the applicant a copy of any order approving or disapproving a plan.

(b) If the commissioner disapproves a plan, the commissioner shall provide the applicant with a written statement detailing the reasons for the disapproval.

Sec. 7. The approval by the commissioner of a plan to issue stock expires one hundred eighty (180) days after the date of approval, except as otherwise provided by an order of the commissioner.

Sec. 8. The amendment of the articles of incorporation of a domestic insurance company under a plan under this article must be conducted in compliance with IC 27-1-8, except as provided in this chapter.

Chapter 7. Miscellaneous Provisions

Sec. 1. (a) This article, while independent of any other law, is supplemental to IC 27-1-2 through IC 27-1-20.

(b) Except as provided in this article, all provisions of IC 27-1-2 through IC 27-1-20 are fully and completely applicable to this article in the same manner as if the provisions of this article had been an original part of IC 27-1-2 through IC 27-1-20. If any conflict exists between this article and IC 27-1-2 through IC 27-1-20, this article is controlling.

Sec. 2. A civil action:

- (1) challenging the validity of; or
- (2) arising out of;

action that is taken or proposed to be taken under this article must commence not later than sixty (60) days after the approval by the commissioner of the plan under which or in respect of which the action is taken or proposed to be taken.

Sec. 3. The provisions of this article are severable in the manner provided in IC 1-1-1-8(b).

Sec. 4. (a) A person who is aggrieved by an action of the commissioner under this article may petition for judicial review of

the action under IC 4-21.5-5.

(b) A person who is aggrieved by a failure of the commissioner to act or make a determination required by this article may bring an action for mandate in the circuit court of Marion County to compel the commissioner to act or make the determination.

Sec. 5. (a) Except as provided in this section, IC 5-14 applies to all filings made under this article.

(b) Filings made under this article may include information that might be damaging to an applicant or its affiliate if made available to competitors. Subject to subsection (c), all information, documents, and copies of the filings containing trade secrets of an applicant or its affiliate are declared:

- (1) confidential for the purposes of IC 5-14-3-4; and
- (2) not subject to inspection and copying by the public under person, except to insurance departments of other states which agree to such confidential treatment;

without the written consent of the person to which they pertain.

(c) If the commissioner, after giving notice to the person seeking such confidential treatment and any other person requesting disclosure, after giving them an opportunity to respond at a departmental hearing in camera, and after giving due consideration to any legitimate interest in preserving trade secrets, determines that the members or policyholders have a compelling interest that would be served by disclosure, then the commissioner, after five (5) business days have elapsed from notification to the applicant, may disclose all or any part thereof in a manner and subject to the limitations as the commissioner determines appropriate.

(d) If within the five (5) business days period referred to in subsection (c), the applicant notifies the commissioner that the applicant or other interested party has filed an action seeking a protective order from a circuit or superior court to prevent or to limit disclosure, the commissioner shall not disclose the information, documents, or copies thereof during the pendency of the action and any appeal or after any final court decision prohibiting disclosure.

Sec. 6. An MIHC and its subsidiaries and affiliates may not do any of the following:

- (1) Lend funds to a person to finance the purchase of stock in

a stock offering by an MIHC or any of its subsidiaries other than policyholder loans granted under the terms of an insurance policy of a subsidiary.

(2) Pay commissions, special fees, or other special or extraordinary compensation to officers, directors, interested persons, or affiliates for arranging, promoting, aiding, assisting, or participating in the structure or placement of a stock offering by the MIHC or any of its subsidiaries, except to the extent permitted under IC 27-14-4.

(3) Enter into an understanding or agreement transferring legal or beneficial ownership of stock to another person in avoidance of this article.

Sec. 7. (a) Except as provided in subsection (b), a reorganized insurer to which insurance policies, contracts, and other assets and obligations are transferred in connection with a plan of reorganization under this article has, with respect to the insurance policies, contracts, and other assets and obligations, all rights, liabilities, and authority of the MIC that is the subject of the plan of reorganization.

(b) An MIHC resulting from a plan of reorganization of a MIC under this article, has all obligations and liabilities of the MIC for any claim, asserted or otherwise, that existed at the effective date of the reorganization and that:

(1) seeks the imposition of a constructive or charitable trust on assets of the MIC for the benefit of policyholders, members, or other persons;

(2) seeks distribution or return of assets, or other form of compensation, from the MIC to policy holders or members; or

(3) otherwise arises out of, or relates to, the ownership interest of policyholders or members of the MIC, or to the value of their ownership interests, including any claim that challenges a statutory transaction engaged in by the MIC before the effective date of the reorganization.

Sec. 8. If a proceeding is pending against an MIC that is the subject of a plan of reorganization under this article:

(1) the proceeding may be continued after the effective date as if the reorganization had not occurred; or

(2) the reorganized insurer that is the successor to the MIC's

business may be substituted in the proceeding for the MIC; except that the MIHC resulting from the plan of reorganization shall be substituted for the MIC and any subsidiaries of the MIC in all proceedings involving any claim described in section 7(b) of this chapter.

Sec. 9. An MIHC may convert to a stock company under IC 27-1-8-13 as though the MIHC were an MIC.

Sec. 10. The commissioner shall, at the applicant's expense, hire attorneys, actuaries, accountants, investment bankers, and other experts as may be necessary to assist the commissioner in reviewing all matters under this article that are associated with a plan of reorganization or a plan to issue stock. The commissioner may at any time require an applicant to deposit an amount of money with the department of insurance in anticipation of expenses to be incurred by the commissioner under this article.

Sec. 11. The commissioner may adopt rules under IC 4-22-2 to carry out the purposes of this article.

Sec. 12. (a) A domestic MIC may reorganize with a foreign mutual holding company by complying with IC 27-14-2. The commissioner may waive any provision of IC 27-14-2 if the commissioner determines the provision to be unnecessary for the protection of policyholders and members.

(b) A plan of reorganization under subsection (a) is effective when the reorganized domestic stock insurance company subsidiary has filed its articles of amendment and amended certificate of authority in the office of the county recorder of the county in which the principal office of the company is located or at a later date specified in the plan of reorganization.

(c) A domestic MIC seeking to reorganize under subsection (a) may at the same time redomesticate to another state by complying with IC 27-1-6.5 and the applicable requirements of the state to which it seeks to transfer domicile.

Sec. 13. (a) An existing MIHC may, with the prior approval of the commissioner:

- (1)** acquire direct or indirect ownership of a converting foreign MIC that becomes a stock insurer in compliance with the laws of its state of domicile; and
- (2)** grant membership interests and equity rights to the members or policyholders of a foreign mutual insurer that

merges with a direct or indirect domestic or foreign subsidiary of the MIHC or is otherwise acquired by the MIHC.

(b) The commissioner shall consider the fairness of the terms and conditions of the transaction, whether the interests of the members of each MIHC that is a party to the transaction are protected, and whether the proposed transaction is in the public interest when determining whether to approve a transaction under subsection (a).

Sec. 14. The concurrent reorganization of two (2) or more MICs into a single MIHC structure under IC 27-14-2 may be accomplished by a joint application and a joint plan of reorganization and may be approved by the commissioner following a combined hearing. The commissioner may allow such other procedures as may be necessary or desirable to avoid unnecessary or duplicative costs and efforts in satisfying the requirements of this article and in effectuating the reorganization.

Sec. 15. An MIHC may reorganize with a foreign mutual insurance holding company, subject to the approval of the commissioner, under IC 27-1-23. If the MIHC is not the surviving entity in any reorganization transaction, then the commissioner must consider the effect of the transaction on the protections afforded policyholders under the members' surplus protection principle in determining whether the transaction is in the best interests of the policyholders. If the commissioner waives any or all of the provisions of the members' surplus protection principle in approving a transaction, then the commissioner must explain the basis for waiving the provisions in writing in the order approving the transaction.

SECTION 5. [EFFECTIVE UPON PASSAGE] (a) IC 27-14, as added by this act, is intended to enable mutual insurance companies to seek additional capital more effectively to:

- (1) enhance their financial strength and flexibility;
- (2) support long term growth internally and through mergers and acquisitions; and
- (3) expand and enhance the domestic insurance companies of this state.

(b) IC 27-14, as added by this act, provides an alternative organizational structure to help strengthen the Indiana mutual

insurance industry by permitting mutual insurance companies to:

- (1) reorganize into a mutual insurance holding company structure; and**
- (2) raise capital through the sale of capital stock.**

SECTION 6. An emergency is declared for this act.

P.L.6-2000

[H.1003. Approved December 1, 1999.]

AN ACT to amend the Indiana Code concerning taxation.

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

SECTION 1. IC 6-5.5-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999 (RETROACTIVE)]:

Sec. 1. (a) There is imposed on each taxpayer a franchise tax measured by the taxpayer's ~~adjusted gross income~~ or apportioned income for the privilege of exercising its franchise or the corporate privilege of transacting the business of a financial institution in Indiana. The amount of the tax for a taxable year shall be determined by multiplying eight and one-half percent (8.5%) times the remainder of:

- (1) the taxpayer's ~~adjusted gross income~~ or apportioned income; minus
- (2) the taxpayer's deductible Indiana net operating losses as determined under this section; minus
- (3) the taxpayer's net capital losses minus the taxpayer's net capital gains computed under the Internal Revenue Code for each taxable year or part of a taxable year beginning after December 31, 1989, multiplied by the apportionment percentage applicable to the taxpayer under IC 6-5.5-2 for the taxable year of the loss.

A net capital loss for a taxable year is a net capital loss carryover to each of the five (5) taxable years that follow the taxable year in which the loss occurred.

(b) The amount of net operating losses deductible under subsection (a) is an amount equal to the net operating losses computed under the

Internal Revenue Code, adjusted for the items set forth in IC 6-5.5-1-2, that are:

- (1) incurred in each taxable year, or part of a year, beginning after December 31, 1989; and
- (2) attributable to Indiana.

(c) The following apply to determining the amount of net operating losses that may be deducted under subsection (a):

- (1) The amount of net operating losses that is attributable to Indiana is the taxpayer's total net operating losses under the Internal Revenue Code for the taxable year of the loss, adjusted for the items set forth in IC 6-5.5-1-2, multiplied by the apportionment percentage applicable to the taxpayer under IC 6-5.5-2 for the taxable year of the loss.
- (2) A net operating loss for any taxable year is a net operating loss carryover to each of the fifteen (15) taxable years that follow the taxable year in which the loss occurred.

(d) The following provisions apply to a combined return computing the tax on the basis of the income of the unitary group when the return is filed for more than one (1) taxpayer member of the unitary group for any taxable year:

- (1) Any net capital loss or net operating loss attributable to Indiana in the combined return shall be prorated between each taxpayer member of the unitary group by the quotient of:
 - (A) the receipts of that taxpayer member attributable to Indiana under section 4 of this chapter; divided by
 - (B) the receipts of all taxpayer members of the unitary group attributable to Indiana.
- (2) The net capital loss or net operating loss for that year, if any, to be carried forward to any subsequent year shall be limited to the capital gains or apportioned income for the subsequent year of that taxpayer, determined by the same receipts formula set out in subdivision (1).

SECTION 2. IC 6-5.5-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999 (RETROACTIVE)]:

Sec. 3. For a ~~nonresident~~ taxpayer that is not filing a combined return, the taxpayer's apportioned income consists of the taxpayer's adjusted gross income for that year multiplied by the quotient of:

- (1) the taxpayer's total receipts attributable to transacting business

in Indiana, as determined under IC 6-5.5-4; divided by
 (2) the taxpayer's total receipts from transacting business in all
 taxing jurisdictions, as determined under IC 6-5.5-4.

SECTION 3. IC 6-5.5-2-4 IS AMENDED TO READ AS
 FOLLOWS [EFFECTIVE JANUARY 1, 1999 (RETROACTIVE)]:

Sec. 4. For a taxpayer filing a combined return for its unitary group, the
 group's apportioned income for a taxable year consists of:

- (1) the aggregate adjusted gross income, from whatever source
 derived, of the ~~resident taxpayer members of the unitary group~~
~~and the nonresident~~ members of the unitary group; multiplied by
- (2) the quotient of:
 - (A) all the receipts of the ~~resident taxpayer members of the~~
~~unitary group from whatever source derived plus the receipts~~
~~of the nonresident~~ taxpayer members of the unitary group that
 are attributable to transacting business in Indiana; divided by
 - (B) the receipts of all the members of the unitary group from
 transacting business in all taxing jurisdictions.

SECTION 4. IC 6-5.5-4-1 IS AMENDED TO READ AS
 FOLLOWS [EFFECTIVE JANUARY 1, 1999 (RETROACTIVE)]:

Sec. 1. This chapter applies to ~~the following~~:

- ~~(1) Nonresident all taxpayers.~~
- ~~(2) Nonresident members of a unitary group that file a combined
 return.~~

SECTION 5. THE FOLLOWING ARE REPEALED [EFFECTIVE
 JANUARY 1, 1999 (RETROACTIVE)]: IC 6-5.5-2-2; IC 6-5.5-2-5;
 IC 6-5.5-2-5.3.

SECTION 6. [EFFECTIVE JANUARY 1, 1999 (RETROACTIVE)]:
**IC 6-5.5-2-1, IC 6-5.5-2-3, 6-5.5-2-4, and IC 6-5.5-4-1, all as
 amended by this act, apply to taxable years that begin after
 December 31, 1998.**

SECTION 7. **An emergency is declared for this act.**

P.L.7-2000

[H.1004. Approved December 1, 1999.]

AN ACT to amend the Indiana Code concerning human services.

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

SECTION 1. IC 12-8-1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 30, 1999 (RETROACTIVE)]: Sec. 10. This chapter expires July 1, ~~1999~~: **2001**.

SECTION 2. IC 12-8-1-14 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JUNE 30, 1999 (RETROACTIVE)]: **Sec. 14. The office of the secretary shall implement methods to facilitate the payment of providers under IC 12-15.**

SECTION 3. IC 12-8-2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 30, 1999 (RETROACTIVE)]: Sec. 12. This chapter expires July 1, ~~1999~~: **2001**.

SECTION 4. IC 12-8-6-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 30, 1999 (RETROACTIVE)]: Sec. 10. This chapter expires July 1, ~~1999~~: **2001**.

SECTION 5. IC 12-8-8-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 30, 1999 (RETROACTIVE)]: Sec. 8. This chapter expires July 1, ~~1999~~: **2001**.

SECTION 6. [EFFECTIVE JUNE 30, 1999 (RETROACTIVE)] **The office of the secretary, in order to carry out the requirements of IC 12-8-1-14, as added by this act, shall:**

- (1) determine methods to facilitate the payment of providers participating in the Medicaid program under IC 12-15; and**
- (2) submit a written report of its activities and findings to the legislative council before March 1, 2000.**

SECTION 7. [EFFECTIVE JUNE 30, 1999 (RETROACTIVE)] **Actions taken under IC 12-8-1, IC 12-8-2, IC 12-8-6, and IC 12-8-8 after June 30, 1999, and before the passage of this act are legalized and validated to the extent that those actions would have been legal and valid if this act had been adopted before July 1, 1999.**

SECTION 8. **An emergency is declared for this act.**

P.L.8-2000

[S.216. Approved February 24, 2000.]

AN ACT to amend the Indiana Code concerning taxation.

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

SECTION 1. IC 6-9-23-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) After January 1 but before June 1 of a year, the fiscal body of a county may adopt an ordinance to impose an excise tax, known as the county food and beverage tax, on those transactions described in section 4 of this chapter.

(b) If a fiscal body adopts an ordinance under subsection (a), it shall immediately send a certified copy of the ordinance to the commissioner of the department of state revenue.

(c) If a fiscal body adopts an ordinance under subsection (a), the county food and beverage tax applies to transactions that occur after June 30 of the year in which the ordinance is adopted.

(d) The tax terminates ~~two (2) years after the retirement of debt that was incurred under section 8 of this chapter.~~ **June 30, 2000 unless there is a legal challenge that requests, or has the effect of requesting, the invalidation, revocation or repeal of a tax imposed under IC 6-9-33 or the time for bringing such a challenge under IC 6-9-33-3(c) has not expired. If there is such a legal challenge to a tax imposed under IC 6-9-33 or if the time for bringing such a legal challenge under IC 6-9-33-3(c) has not expired, the tax imposed under this chapter shall remain in effect and shall not terminate until the earlier of either:**

- (1) two (2) years after the retirement of debt that was incurred under section 8 of this chapter;**
- (2) the expiration of the time for bringing a legal challenge, under IC 6-9-33-3(c), to a tax imposed under IC 6-9-33**

**without the filing of such a challenge; or
 (3) the final conclusion of any legal challenges to a tax imposed under IC 6-9-33 should such challenges fail to cause the invalidation, revocation or repeal of a tax imposed under IC 6-9-33.**

SECTION 2. IC 6-9-23-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) If a tax is imposed under section 3 of this chapter, the county treasurer shall establish a coliseum expansion fund. The county treasurer shall deposit in this fund all amounts received from the tax imposed under this chapter. Money in this fund may be appropriated only

(1) for any acquisition; improvement; remodeling; or expansion of:

(A) an athletic and exhibition coliseum in existence before the effective day of an ordinance adopted under section 3 of this chapter; or

(B) if approved by an ordinance of the county fiscal body (other than an appropriations ordinance), an athletic and exhibition coliseum in existence before January 1, 1998; and

(2) to retire any bonds issued, loans obtained, or lease payments incurred under IC 36-1-10 (referred to in this chapter as "obligations") to remodel, expand, improve, or acquire:

(A) an athletic and exhibition coliseum in existence before the effective day of an ordinance adopted under section 3 of this chapter; or

(B) if approved by an ordinance of the county fiscal body (other than an appropriations ordinance), an athletic and exhibition coliseum in existence before January 1, 1998.

(b) Obligations entered into for the acquisition, expansion, remodeling, and improvement of an athletic and exhibition coliseum shall be retired by using money collected from a tax imposed under this chapter.

(c) Money collected under this chapter and set aside for debt reserve before July 1, 1998, may not be used for the purposes set forth in subsection (a)(1).

SECTION 3. IC 6-9-33 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 33. Allen County Supplemental Food and Beverage Tax

Sec. 1. This chapter applies to a county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000).

Sec. 2. The definitions in IC 6-9-12-1 apply throughout this chapter.

Sec. 3. (a) After January 1 but before June 1, the fiscal body of a county may adopt an ordinance to impose an excise tax, known as the county supplemental food and beverage tax, on those transactions described in section 4 of this chapter.

(b) If a fiscal body adopts an ordinance under subsection (a), it shall immediately send a certified copy of the ordinance to the commissioner of the department of state revenue.

(c) If a fiscal body adopts an ordinance under subsection (a), the county supplemental food and beverage tax applies to transactions that occur after June 30 of the year in which the ordinance is adopted. Any legal challenges to the imposition of the tax, including any effort to force the revocation or repeal of the tax, must be filed within ninety (90) days after the adoption of the tax by the fiscal body of a county. Pending the time for a legal challenge to the tax, and during the course of any legal challenge to the tax, the tax shall not apply to any covered transaction.

(d) The tax terminates two (2) years after the retirement of debt that was incurred under this chapter.

Sec. 4. (a) Except as provided in subsection (c), a tax imposed under section 3 of this chapter applies to any transaction in which food or beverage is furnished, prepared, or served:

- (1)** for consumption at a location, or on equipment, provided by a retail merchant;
- (2)** in the county in which the tax is imposed; and
- (3)** by a retail merchant for consideration.

(b) Transactions described in subsection (a)(1) include transactions in which food or beverage is:

- (1)** served by a retail merchant off the merchant's premises;
- (2)** sold by a retail merchant who ordinarily bags, wraps, or packages the food or beverage for immediate consumption on or near the retail merchant's premises, including food or beverage sold on a "take out" or "to go" basis; or
- (3)** sold by a street vendor.

(c) The county supplemental food and beverage tax does not apply to the furnishing, preparing, or serving of any food or beverage in a transaction that is exempt, or to the extent exempt, from the state gross retail tax imposed by IC 6-2.5.

Sec. 5. The county supplemental food and beverage tax imposed on a food or beverage transaction described in section 4 of this chapter may not exceed one percent (1%) of the gross retail income received by the merchant from the transaction. For purposes of this chapter, the gross retail income received by the retail merchant from such a transaction does not include the amount of tax imposed on the transaction under IC 6-2.5 or IC 6-9-23.

Sec. 6. The tax that may be imposed under this chapter shall be imposed, paid, and collected in the same manner that the state gross retail tax is imposed, paid, and collected under IC 6-2.5. However, the return to be filed for the payment of the tax under this chapter may be made separately or may be combined with the return filed for the payment of the state gross retail tax, as prescribed by the department of state revenue.

Sec. 7. The amounts received from the county supplemental food and beverage tax imposed under this chapter shall be paid monthly by the treasurer of state to the county treasurer upon warrants issued by the auditor of state.

Sec. 8. If a tax is imposed under section 3 of this chapter, the county treasurer shall establish a supplemental coliseum improvement fund. The county treasurer shall deposit in this fund all amounts received from the tax imposed under this chapter. Money in this fund may be appropriated only:

- (1) for acquisition, improvement, remodeling, or expansion of;
- or
- (2) to retire or advance refund bonds issued, loans obtained, or lease payments incurred under IC 36-1-10 (referred to in this chapter as "obligations") to remodel, expand, improve, or acquire;

an athletic and exhibition coliseum in existence before the effective date of an ordinance adopted under section 3 of this chapter.

Sec. 9. (a) The county may enter into an agreement under which amounts deposited in, or to be deposited in, the supplemental coliseum expansion fund are pledged to payment of obligations issued to finance the remodeling, expansion, or maintenance of an

athletic and exhibition coliseum under section 8 of this chapter.

(b) Obligations entered into for the acquisition, expansion, remodeling, and improvement of an athletic and exhibition coliseum shall be retired by using money collected from a tax imposed under this chapter.

(c) With respect to obligations for which a pledge has been made under subsection (a), the general assembly covenants with the holders of these obligations that:

(1) this chapter will not be repealed or amended in any manner that will adversely affect the imposition or collection of the tax imposed under this chapter; and

(2) this chapter will not be amended in any manner that will change the purpose for which revenues from the tax imposed under this chapter may be used;

as long as the payment of any of those obligations is outstanding.

Sec. 10. Any action by the fiscal body of the county or by any other county elected officials in adopting or implementing an ordinance to impose a supplemental food and beverage tax under this chapter shall not be construed to be a modification, amendment, or change of any ordinance that imposed a tax under IC 6-9-23.

SECTION 4. An emergency is declared for this act.

P.L.9-2000

[S.7. Approved March 1, 2000.]

AN ACT to amend the Indiana Code concerning criminal law and procedure.

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

SECTION 1. IC 35-41-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 2.** (a) Except as otherwise provided in this section, a prosecution for an offense is barred unless it is commenced:

- (1) within five (5) years after the commission of a Class B, Class C, or Class D felony; or
 - (2) within two (2) years after the commission of a misdemeanor.
- (b) A prosecution for ~~murder~~ or a Class A felony may be commenced at any time.

(c) A prosecution for murder may be commenced:

- (1) at any time; and**
- (2) regardless of the amount of time that passes between:**
 - (A) the date a person allegedly commits the elements of murder; and**
 - (B) the date the alleged victim of the murder dies.**

(d) A prosecution for the following offenses is barred unless commenced before the date that the alleged victim of the offense reaches thirty-one (31) years of age:

- (1) IC 35-42-4-3(a) (Child molesting).
- (2) IC 35-42-4-5 (Vicarious sexual gratification).
- (3) IC 35-42-4-6 (Child solicitation).
- (4) IC 35-42-4-7 (Child seduction).
- (5) IC 35-46-1-3 (Incest).

~~(d)~~ **(e)** Notwithstanding subsection (c)(1), a prosecution for child molesting under IC 35-42-4-3(c) or IC 35-42-4-3(d) where a person who is at least sixteen (16) years of age allegedly commits the offense against a child who is not more than two (2) years younger than the older person, is barred unless commenced within five (5) years after the commission of the offense.

~~(e)~~ **(f)** A prosecution for forgery of an instrument for payment of money, or for the uttering of a forged instrument, under IC 35-43-5-2, is barred unless it is commenced within five (5) years after the maturity of the instrument.

~~(f)~~ **(g)** If a complaint, indictment, or information is dismissed because of an error, defect, insufficiency, or irregularity, a new prosecution may be commenced within ninety (90) days after the dismissal even if the period of limitation has expired at the time of dismissal, or will expire within ninety (90) days after the dismissal.

~~(g)~~ **(h)** The period within which a prosecution must be commenced does not include any period in which:

- (1) the accused person is not usually and publicly resident in Indiana or so conceals himself that process cannot be served on

him;

(2) the accused person conceals evidence of the offense, and evidence sufficient to charge him with that offense is unknown to the prosecuting authority and could not have been discovered by that authority by exercise of due diligence; or

(3) the accused person is a person elected or appointed to office under statute or constitution, if the offense charged is theft or conversion of public funds or bribery while in public office.

(h) (i) For purposes of tolling the period of limitation only, a prosecution is considered commenced on the earliest of these dates:

(1) The date of filing of an indictment, information, or complaint before a court having jurisdiction.

(2) The date of issuance of a valid arrest warrant.

(3) The date of arrest of the accused person by a law enforcement officer without a warrant, if the officer has authority to make the arrest.

(i) (j) A prosecution is considered timely commenced for any offense to which the defendant enters a plea of guilty, notwithstanding that the period of limitation has expired.

SECTION 2. [EFFECTIVE JULY 1, 2000] IC 35-41-4-2, as amended by this act, only applies to offenses committed after June 30, 2000.

P.L.10-2000

[S.24. Approved March 1, 2000.]

AN ACT to amend the Indiana Code concerning motor vehicles.

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

SECTION 1. IC 9-24-15-6.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 6.5. (a) The court shall grant a petition for a restricted driving permit filed under this chapter if all of the following conditions exist:

(1) The person was not convicted of one (1) or more of the

following:

(A) A Class D felony under IC 9-30-5-4 before July 1, 1996, or a Class D felony or a Class C felony under IC 9-30-5-4 after June 30, 1996.

(B) A Class C felony under IC 9-30-5-5 before July 1, 1996, or a Class C felony or a Class B felony under IC 9-30-5-5 after June 30, 1996.

(2) The person's driving privileges were suspended under IC 9-30-6-9(b) or IC 35-48-4-15.

(3) The driving that was the basis of the suspension was not in connection with the person's work.

(4) The person does not have a previous conviction for operating while intoxicated.

(5) The person is participating in a rehabilitation program certified by **either** the division of mental health **or the Indiana judicial center** as a condition of the person's probation.

(b) The person filing the petition for a restricted driving permit shall include in the petition the information specified in subsection (a) in addition to the information required by sections 3 through 4 of this chapter.

(c) Whenever the court grants a person restricted driving privileges under this chapter, that part of the court's order granting probationary driving privileges shall not take effect until the person's driving privileges have been suspended for at least thirty (30) days under IC 9-30-6-9.

SECTION 2. IC 9-30-10-9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 9. (a) If a court finds that a person:

(1) is a habitual violator under section 4(c) of this chapter;

(2) has not been previously placed on probation under this section by a court;

(3) operates a vehicle for commercial or business purposes, and the person's mileage for commercial or business purposes:

(A) is substantially in excess of the mileage of an average driver; and

(B) may have been a factor that contributed to the person's poor driving record; and

(4) does not have:

(A) a judgment for a violation enumerated in section 4(a) of this chapter; or

(B) at least three (3) judgments (singularly or in combination and not arising out of the same incident) of the violations enumerated in section 4(b) of this chapter;

the court may place the person on probation in accordance with subsection (c).

(b) If a court finds that a person:

(1) is a habitual violator under section 4(b) of this chapter;

(2) has not been previously placed on probation under this section by a court;

(3) does not have a judgment for any violation listed in section 4(a) of this chapter;

(4) has had the person's driving privileges suspended under this chapter for at least five (5) consecutive years; and

(5) has not violated the terms of the person's suspension by operating a vehicle;

the court may place the person on probation in accordance with subsection (c). However, if the person has any judgments for operation of a vehicle while intoxicated or with at least ten-hundredths percent (0.10%) alcohol by weight in grams in one hundred (100) milliliters of the blood, or two hundred ten (210) liters of the breath, the court, before the court places a person on probation under subsection (c), must find that the person has successfully fulfilled the requirements of a rehabilitation program certified by **one (1) or both of the following:**

(A) The division of mental health.

(B) The Indiana judicial center.

(c) Whenever a court places a habitual violator on probation, the court:

(1) shall record each of the court's findings under this section in writing;

(2) shall obtain the person's driver's license or permit and send the license or permit to the bureau;

(3) shall direct the person to apply to the bureau for a restricted driver's license;

(4) shall order the bureau to issue the person an appropriate license;

(5) shall place the person on probation for a fixed period of not

less than three (3) years and not more than ten (10) years;
(6) shall attach restrictions to the person's driving privileges, including restrictions limiting the person's driving to:

- (A) commercial or business purposes or other employment related driving;
- (B) specific purposes in exceptional circumstances; and
- (C) rehabilitation programs;

(7) shall order the person to file proof of financial responsibility for three (3) years following the date of being placed on probation; and

(8) may impose other appropriate conditions of probation.

(d) If a court finds that a person:

(1) is a habitual violator under section 4(b) or 4(c) of this chapter;
(2) does not have any judgments for violations under section 4(a) of this chapter;

(3) does not have any judgments or convictions for violations under section 4(b) of this chapter, except for judgments or convictions under section 4(b)(4) of this chapter that resulted from driving on a suspended license that was suspended for:

- (A) the commission of infractions only; or
- (B) previously driving on a suspended license;

(4) has not been previously placed on probation under this section by a court; and

(5) has had the person's driving privileges suspended under this chapter for at least three (3) consecutive years and has not violated the terms of the person's suspension by operating a vehicle for at least three (3) consecutive years;

the court may place the person on probation under subsection (c).

P.L.11-2000

[S.96. Approved March 1, 2000.]

AN ACT to amend the Indiana Code concerning general provisions.

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

SECTION 1. IC 2-5-23-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 5. The commission has the following voting membership:

- (1) The members of the senate ~~planning health and public provider~~ services committee.
- (2) The members of the house public health committee.

SECTION 2. IC 2-5-23-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 13. (a) The chairman of the senate ~~planning health and public service provider services~~ committee is the chairman of the commission beginning May 1 of odd-numbered years and vice chairman beginning May 1 of even-numbered years.

(b) The chairman of the house public health committee is the chairman of the commission beginning May 1 of even-numbered years and vice chairman beginning May 1 of odd-numbered years.

P.L.12-2000

[S.134. Approved March 1, 2000.]

AN ACT to amend the Indiana Code concerning trade regulations; consumer sales and credit.

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

SECTION 1. IC 24-5-0.5-12, AS AMENDED BY P.L.246-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

UPON PASSAGE]: Sec. 12. (a) It is an incurable deceptive act for an individual, while soliciting or performing a consumer transaction, to claim, either orally or in writing, to possess a doctorate degree or use a title, a word, letters, an insignia, or an abbreviation associated with a doctorate degree, unless the individual:

(1) has been awarded a doctorate degree from an institution that is:

(A) accredited by a regional or professional accrediting agency recognized by the United States Department of Education or the Council on Postsecondary Accreditation;

(B) a religious seminary, institute, college, or university whose certificates, diplomas, or degrees clearly identify the religious character of the educational program; or

(C) operated and supported by a governmental agency; or

(2) meets the requirements approved by one (1) of the following boards:

~~(1)~~ (A) Medical licensing board of Indiana.

~~(2)~~ (B) State board of dental examiners.

~~(3)~~ (C) Indiana optometry board.

~~(4)~~ (D) Board of podiatric medicine.

~~(5)~~ (E) State psychology board.

~~(6)~~ (F) Board of chiropractic examiners.

~~(7)~~ (G) Indiana board of veterinary medical examiners.

~~(8)~~ (H) Indiana board of pharmacy.

~~(9)~~ (I) Indiana state board of nursing.

(b) It is an incurable deceptive act for an individual, while soliciting or performing a consumer transaction, to claim to be a:

(1) physician unless the individual holds an unlimited license to practice medicine under IC 25-22.5; ~~or~~

(2) chiropractic physician unless the individual holds a ~~limited~~ license as a chiropractor under IC 25-10-1; ~~or~~

(3) podiatric physician unless the individual holds a license as a podiatrist under IC 25-29.

(c) The attorney general shall enforce this section in the same manner as any other incurable deceptive act under this chapter.

SECTION 2. An emergency is declared for this act.

P.L.13-2000

[S.318. Approved March 1, 2000.]

AN ACT to amend the Indiana Code concerning health.

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

SECTION 1. IC 16-21-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1. (a) The hospital council is created.

(b) The council consists of ~~eight (8)~~ **nine (9)** members appointed by the governor as follows:

- (1) One (1) must be a licensed physician.
- (2) One (1) must be a registered nurse licensed under IC 25-23 and experienced in providing acute care services.
- (3) Three (3) must be ~~persons~~ **individuals** engaged in hospital administration.
- (4) **One (1) must be an individual engaged in freestanding ambulatory outpatient surgical center administration.**
- (5) One (1) must be ~~appointed by the governor~~ from the division of family and children.
- ~~(5)~~ **(6)** One (1) must be the state health commissioner.
- ~~(6)~~ **(7)** One (1) must be an individual who is not associated with hospitals, except as a consumer.

(c) Except for the members of the council appointed under subsection (b)(3) **and (b)(4)**, a member of the council may not have a pecuniary interest in the operation of, or provide professional services through employment or under contract to, an institution or agency licensed under this article.

P.L.14-2000

[S.12. Approved March 15, 2000.]

AN ACT to amend the Indiana Code concerning general provisions.

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

SECTION 1. IC 3-7-12-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. **(a)** A ~~combined county election board and~~ board of **elections and** registration is established in each county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

(b) As used in this chapter, "board of registration" includes a board of elections and registration established under this section.

SECTION 2. IC 3-8-1-28.5, AS AMENDED BY P.L.176-1999, SECTION 29, AND AS AMENDED BY P.L.254-1999, SECTION 3, IS AMENDED AND CORRECTED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 28.5. (a) This section does not apply to a candidate for the office of judge of a city court in a city located in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000).

(b) A candidate for the office of judge of a city court must reside in the city upon filing a declaration of candidacy or declaration of intent to be a write-in candidate required under IC 3-8-2, a petition of nomination under IC 3-8-6, or a certificate of nomination under IC 3-10-6-12.

(c) A candidate for the office of judge of a city court must reside in a county in which the city is located upon the filing of a certificate of candidate selection under IC 3-13-1-15 or IC 3-13-2-8.

(d) This subsection applies to a candidate for the office of judge of a city court listed in IC 33-10.1-5-7(c). Before a candidate for the office of judge of the court may file a:

- (1) declaration of candidacy or petition of nomination; ~~or~~
- (2) certificate of candidate selection under IC 3-13-1-15 or IC 3-13-2-8; *or*
- (3) *declaration of intent to be a write-in candidate or certificate*

of nomination under IC 3-8-2-2.5 or IC 3-10-6-12;

the candidate must be an attorney in good standing admitted to the practice of law in Indiana.

SECTION 3. IC 3-8-1-29.5, AS ADDED BY P.L.176-1999, SECTION 30, AND AS ADDED BY P.L.254-1999, SECTION 4, IS AMENDED AND CORRECTED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 29.5. (a) This section applies to a candidate for the office of judge of a town court listed in IC 33-10.1-5-7(c).

(b) Before a candidate for the office of judge of the court may file a:

- (1) declaration of candidacy or petition of nomination; ~~or~~
- (2) certificate of candidate selection under IC 3-13-1-15 or IC 3-13-2-8; *or*
- (3) *declaration of intent to be a write-in candidate or certificate of nomination under IC 3-8-2-2.5 or IC 3-10-6-12;*

the candidate must be an attorney in good standing admitted to the practice of law in Indiana.

SECTION 4. IC 3-8-6-12, AS AMENDED BY P.L.176-1999, SECTION 33, AND AS AMENDED BY P.L.202-1999, SECTION 8, IS AMENDED AND CORRECTED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000 (RETROACTIVE)]: Sec. 12. (a) A petition of nomination for an office filed under section 10 of this chapter must be filed with and certified by the person with whom a declaration of candidacy must be filed under IC 3-8-2.

(b) The petition of nomination must be accompanied by the following:

- (1) ~~Each~~ *The* candidate's written consent to become a candidate.
- (2) A statement that the candidate:
 - (A) is aware of the provisions of IC 3-9 regarding campaign finance and the reporting of campaign contributions and expenditures; and
 - (B) agrees to comply with the provisions of IC 3-9.

The candidate must separately sign the statement required by this subdivision.

- (3) If the candidate is subject to IC 3-9-1-5, a statement by the candidate that the candidate has filed a campaign finance statement of organization under IC 3-9-1-5 or is aware that the

candidate may be required to file a campaign finance statement of organization not later than noon seven (7) days after the final date for filing a petition for nomination under section 10 of this chapter.

(4) A statement that if the individual is a candidate for a school board office, the candidate is aware of the requirement to file a campaign finance statement of organization under IC 3-9 after the first of either of the following occurs:

(A) The candidate receives more than five hundred dollars (\$500) in contributions as a school board candidate.

(B) The candidate makes more than five hundred dollars (\$500) in expenditures as a school board candidate.

(5) A statement indicating whether or not each candidate:

(A) has been a candidate for state or local office in a previous primary or general election; and

(B) has filed all reports required by IC 3-9-5-10 for all previous candidacies.

(6) A statement that each candidate is legally qualified to hold the office that the candidate seeks, including any applicable residency requirements and restrictions on service due to a criminal conviction.

(7) If the petition is filed with the secretary of state for an office not elected by the electorate of the whole state, a statement signed by the circuit court clerk of each county in the election district of the office sought by the individual.

(8) *Any statement of economic interests required under IC 3-8-1-33.*

(c) The statement required under subsection (b)(7) must:

(1) be certified by each circuit court clerk; and

(2) indicate the number of votes cast for secretary of state:

(A) at the last election for secretary of state; and

(B) in the part of the county included in the election district of the office sought by the individual filing the petition.

(d) The secretary of state shall, by noon August 20, certify each petition of nomination filed in the secretary of state's office to the appropriate county.

(e) The commission shall provide that the form of a petition of nomination includes the following information near the separate

signature required by subsection (b)(2):

- (1) The dates for filing campaign finance reports under IC 3-9.
- (2) The penalties for late filing of campaign finance reports under IC 3-9.

(f) A candidate's consent to become a candidate must include a statement that the candidate requests the name on the candidate's voter registration record be the same as the name the candidate uses on the consent to become a candidate. If there is a difference between the name on the candidate's consent to become a candidate and the name on the candidate's voter registration record, the officer with whom the consent to become a candidate is filed shall forward the information to the voter registration officer of the appropriate county as required by IC 3-5-7-6(e). The voter registration officer of the appropriate county shall change the name on the candidate's voter registration record to be the same as the name on the candidate's consent to become a candidate.

SECTION 5. IC 3-8-7-25.5, AS AMENDED BY P.L.176-1999, SECTION 36, AND AS AMENDED BY P.L.202-1999, SECTION 12, IS AMENDED AND CORRECTED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000 (RETROACTIVE)]: Sec. 25.5. (a) This section does not apply to the change of a candidate's name that occurs after absentee ballots have been printed bearing the candidate's name.

(b) A candidate who:

- (1) is:
 - (A) nominated for election; or
 - (B) a candidate for nomination; and
- (2) ~~wishes to change~~ changed the candidate's legal name after:
 - (A) the candidate has been nominated; or
 - (B) the candidate has become a candidate for nomination;

may shall file a statement setting forth the former and current legal name of the candidate with the office where a declaration of candidacy or certificate of nomination for the office is required to be filed. If the final date and hour has not passed for filing a declaration of candidacy, consent for nomination, or declaration of intent to be a write-in candidate, the candidate must file the request for a change of name on the form prescribed by the commission for the declaration or consent.

(c) The statement filed under subsection (b) must also indicate *the following*:

(1) That the candidate has previously filed a change of name request with a county voter registration office so that the name set forth in the statement is identical to the candidate's name on the county voter registration record.

(2) *How the candidate's legal name was changed.*

(d) Upon the filing of the statement, the election division and each county election board shall print the candidate's *legal* name on the ballot as set forth in the statement.

SECTION 6. IC 3-11.5-4-22, AS AMENDED BY P.L.38-1999, SECTION 54, AND AS AMENDED BY P.L.176-1999, SECTION 92, IS AMENDED AND CORRECTED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 22. (a) *Except as provided in subsection (b)*, each county election board shall appoint:

- (1) absentee voter boards;
- (2) teams of absentee ballot counters; and
- (3) teams of couriers;

consisting of two (2) voters of the county, one (1) from each of the two (2) political parties that have appointed members on the county election board.

(b) *Notwithstanding subsection (a), a county election board may appoint, by a unanimous vote of the board's members, only one (1) absentee ballot courier if the person appointed is a voter of the county.*

(c) ~~A~~ *An otherwise qualified person is ~~not~~ eligible to serve on an absentee voter board or as an absentee ballot counter or a courier ~~if~~ unless the person:*

- (1) is unable to read, write, and speak the English language;
- (2) has any property bet or wagered on the result of the election;
- (3) is a candidate to be voted for at the election, except as an unopposed candidate for precinct committeeman or state convention delegate; or
- (4) is the spouse, parent, father-in-law, mother-in-law, child, son-in-law, daughter-in-law, grandparent, grandchild, brother, sister, brother-in-law, sister-in-law, uncle, aunt, nephew, *or niece or first cousin* of a candidate or declared write-in candidate to be voted for at the election except as an unopposed candidate. This subdivision disqualifies a person whose relationship to the

candidate is the result of birth, marriage, or adoption. ~~*This subdivision does not disqualify a person who is a spouse of a first cousin of the candidate.*~~

SECTION 7. IC 3-12-8-1, AS AMENDED BY P.L.176-1999, SECTION 99, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) This section does not apply to a challenge filed before an election to the eligibility of a candidate nominated by petition for election to an office. The challenge described by this ~~section~~ **subsection** must be conducted in accordance with IC 3-8-1-2.

(b) Any candidate for nomination or election to a local or school board office may contest the nomination or election of a candidate who is declared nominated or elected to the office.

(c) If a candidate who is entitled to contest the nomination or election of a candidate under this chapter does not file a petition within the period established by section 5 of this chapter, the county chairman of a political party of which the candidate entitled to file a petition under this chapter was a member may file a petition to contest the nomination or election of a candidate. A county chairman is entitled to contest an election under this chapter only in a partisan race.

SECTION 8. IC 4-4-10.9-3.2, AS ADDED BY P.L.227-1999, SECTION 3, AND AS ADDED BY P.L.273-1999, SECTION 193, IS AMENDED AND CORRECTED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3.2. "Child care facility project" includes the acquisition of land, site improvements, infrastructure improvements, buildings or structures, rehabilitation, renovation, and enlargement of buildings and structures, machinery, equipment, working capital, furnishings, or facilities (or any combination of these):

- (1) comprising or being functionally related and subordinate to a child care facility; and
- (2) not used or to be used primarily:
 - (A) for sectarian care;
 - (B) as a place for devotional activities; or
 - (C) in connection with any part of the program of a:
 - ~~(i)~~ (i) church;
 - (ii) school; or
 - (iii) department of divinity;

for any religious denomination.

SECTION 9. IC 4-4-10.9-11, AS AMENDED BY P.L.227-1999, SECTION 5, AND AS AMENDED BY P.L.273-1999, SECTION 194, IS AMENDED AND CORRECTED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) Except as provided in subsection (b), "industrial development project" includes:

- (1) the acquisition of land, site improvements, infrastructure improvements, buildings, or structures, rehabilitation, renovation, and enlargement of buildings and structures, machinery, equipment, furnishings, or facilities (or any combination of these), comprising or being functionally related and subordinate to any project (whether manufacturing, commercial, agricultural, environmental, or otherwise) the development or expansion of which serves the public purposes set forth in IC 4-4-11-2;
- (2) educational facility projects; and
- (3) child care facility projects.

(b) For purposes of the industrial development guaranty fund program, "industrial development project" includes the acquisition of land, interests in land, site improvements, infrastructure improvements (*including information and high technology infrastructure (as defined in IC 4-4-8-1)*), buildings, or structures, rehabilitation, renovation, and enlargement of buildings and structures, machinery, equipment, furnishings, or facilities (or any combination of these), comprising or being functionally related and subordinate to any of the following:

- (1) A pollution control facility.
- (2) A manufacturing enterprise.
- (3) A business service enterprise involved in:
 - (A) computer and data processing services; or
 - (B) commercial testing services.
- (4) A business enterprise the primary purpose of which is the operation of an education and permanent marketing center for manufacturers and distributors of robotic and flexible automation equipment.
- (5) Any other business enterprise, if the use of the guaranty program creates a reasonable probability that the effect on Indiana employment will be creation or retention of at least fifty (50) jobs.
- (6) An agricultural enterprise in which:
 - (A) the enterprise operates pursuant to a producer or growout agreement; and

(B) the output of the enterprise is processed predominantly in Indiana.

(7) A business enterprise that is required by a state, federal, or local regulatory agency to make capital expenditures to remedy a violation of a state or federal law or a local ordinance.

(8) A recycling market development project.

(9) *A high growth company with high skilled jobs (as defined in IC 4-4-10.9-9.5).*

SECTION 10. IC 4-4-11-17.5, AS AMENDED BY P.L.227-1999, SECTION 8, AND AS AMENDED BY P.L.273-1999, SECTION 197, IS AMENDED AND CORRECTED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17.5. (a) In addition to all other authority granted to the authority under this chapter, including the authority to borrow money and to issue bonds to finance directly or indirectly the acquisition or development of industrial development projects undertaken or initiated by the authority, the authority may initiate programs for financing industrial development projects for developers and users in Indiana through the issuance of bonds under this chapter. In furtherance of this objective, the authority may do any of the following:

(1) Establish eligibility standards for developers and users, without complying with IC 4-22-2. However, these standards have the force of law if the standards are adopted after a public hearing for which notice has been given by publication under IC 5-3-1.

(2) Contract with any entity securing the payment of bonds issued under this chapter and authorizing the entity to approve the developers and users that can finance or refinance industrial development projects with proceeds from the bond issue secured by that entity.

(3) Lease to a developer or user industrial development projects upon terms and conditions that the authority considers proper and, with respect to the lease:

(A) charge and collect rents;

(B) terminate the lease upon the failure of the lessee to comply with any of its obligations under the lease or otherwise as the lease provides; and

(C) include in the lease provisions that the lessee has the option to renew the term of the lease for such periods and at

such rents as may be determined by the authority or to purchase any or all of the industrial development projects to which the lease applies.

(4) Lend money, upon such terms and conditions as the authority considers proper, to a developer or user under an installment purchase contract or loan agreement to:

(A) finance, reimburse, or refinance the cost of an industrial development project; and

(B) take back a secured or unsecured promissory note evidencing such a loan or a security interest in the industrial development project financed or refinanced with the loan.

(5) Sell or otherwise dispose of any unneeded or obsolete industrial development project under terms and conditions determined by the authority.

(6) Maintain, repair, replace, and otherwise improve or cause to be maintained, repaired, replaced, and otherwise improved any industrial development project owned by the authority.

(7) Require any type of security that the authority considers reasonable and necessary.

(8) Obtain or aid in obtaining property insurance on all industrial development projects owned or financed, or accept payment if any industrial development project property is damaged or destroyed.

(9) Enter into any agreement, contract, or other instrument with respect to any insurance, guarantee, letter of credit, or other form of credit enhancement, accepting payment in such manner and form as provided in the instrument if a developer or user defaults, and assign any such insurance, guarantee, letter of credit, or other form of credit enhancement as security for bonds issued by the authority.

(10) Finance for eligible developers and users in connection with their industrial development projects:

(A) the cost of their industrial development projects; and

(B) in the case of a program funded from the proceeds of taxable bonds, working capital associated with the operation of such industrial development projects;

in amounts determined to be appropriate by the authority.

(11) Issue bonds to fund a program for financing multiple,

identified or unidentified industrial development projects if the authority finds that issuance of the bonds will be of benefit to the health, safety, morals, or general welfare of the state and complies with the purposes and provisions of this chapter by promoting a substantial likelihood for:

- (A) creating opportunities for gainful employment;
- (B) creating business opportunities;
- (C) educational enrichment (including cultural, intellectual, scientific, or artistic opportunities);
- (D) the abatement, reduction, or prevention of pollution;
- (E) the removal or treatment of any substances in materials being processed that would otherwise cause pollution when used; or
- (F) promoting affordable and accessible child care.

The authority may by resolution approve the proposed taxable bond issue. The authority may use appropriations to create a debt service reserve fund for the purpose of allowing the authority to issue pooled bonds, either tax-exempt or taxable, for the construction or renovation of licensed child care facilities (*or child care facilities that are in the process of being licensed*) under the authority's industrial development project section.

(b) As each unidentified industrial development project is identified for possible funding from a program under subsection (a)(11), the requirements of sections 17(a), 17(b), 17(c), and 17(e) of this chapter shall be complied with as a condition precedent to entering into a financing agreement for the funding of the industrial development project.

(c) Bonds issued to fund a program under this section are not in any respect a general obligation of the state, nor are they payable in any manner from revenues raised by taxation.

(d) Any resolution adopted to authorize the issuance of taxable bonds to fund a program under subsection (a)(11) may provide that the bonds are payable solely from:

- (1) revenues and receipts derived from the various financing agreements; or
- (2) the payments made under any other agreements to secure the obligations of the developers, users, related persons, or the authority.

(e) The obligations described in subsection (d)(2) may be secured under the agreement by the authority under the industrial development project guaranty fund or by the developers, users, or related persons.

SECTION 11. IC 4-4-26-25, AS AMENDED BY P.L.227-1999, SECTION 10, AND AS AMENDED BY P.L.273-1999, SECTION 198, IS AMENDED AND CORRECTED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 25. The lender shall determine the premium charges payable to the reserve fund by the lender and the borrower in connection with a loan filed for enrollment. The premium paid by the borrower may not be less than one and one-half percent (1.5%) or greater than three and one-half percent (3.5%) of the amount of the loan. The premium paid by the lender must be equal to the amount of the premium paid by the borrower. The lender may recover the cost of the lender's premium payment from the borrower in any manner on which the lender and borrower agree. When enrolling a loan, the authority must transfer into the reserve fund from the account premium amounts determined as follows:

(1) If the amount of a loan, plus the amount of loans previously enrolled by the lender, is less than two million dollars (\$2,000,000), the premium amount transferred must be equal to one hundred fifty percent (150%) of the combined premiums paid into the reserve fund by the borrower and the lender for each enrolled loan.

(2) If, before the enrollment of the loan, the amount of loans previously enrolled by the lender is equal to or greater than two million dollars (\$2,000,000), the premium amount transferred must be equal to the combined premiums paid into the reserve fund by the borrower and the lender for each enrolled loan.

(3) If the aggregate amount of all loans previously enrolled by the lender is less than two million dollars (\$2,000,000), but the enrollment of a loan will cause the aggregate amount of all enrolled loans made by the lender to exceed two million dollars (\$2,000,000), the authority shall transfer into the reserve fund an amount equal to a percentage of the combined premiums paid into the reserve fund by the lender and the borrower. The percentage is determined as follows:

STEP ONE: Multiply by one hundred fifty (150) that part of the loan that when added to the aggregate amount of all loans

previously enrolled by the lender totals two million dollars (\$2,000,000).

STEP TWO: Multiply the remaining balance of the loan by one hundred (100).

STEP THREE: Add the STEP ONE product to the STEP TWO product.

STEP FOUR: Divide the STEP THREE sum by the total amount of the loan.

The authority may transfer two (2) times the amount determined under this section to the reserve fund if the borrower is a disadvantaged business enterprise (as defined in IC 5-16-6.5-1). *The authority may transfer three (3) times the amount determined under this section to the reserve fund if the borrower is a high growth company with high skilled jobs (as defined in IC 4-4-10.9-9.5).* The authority may transfer to the reserve fund three (3) times the amount determined under this section if the borrower is a child care facility. Unless money is paid out of the reserve fund according to the specific terms of this chapter, all money paid into the reserve account by the lender shall remain in that account.

SECTION 12. IC 4-23-24.2-3 IS REPEALED [EFFECTIVE UPON PASSAGE].

SECTION 13. IC 4-33-4-3, AS AMENDED BY P.L.273-1999, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3.** (a) The commission shall do the following:

- (1) Adopt rules that the commission determines necessary to protect or enhance the following:
 - (A) The credibility and integrity of gambling operations authorized by this article.
 - (B) The regulatory process provided in this article.
 - (C) The natural environment and scenic beauty of Patoka Lake.
- (2) Conduct all hearings concerning civil violations of this article.
- (3) Provide for the establishment and collection of license fees and taxes imposed under this article.
- (4) Deposit the license fees and taxes in the state gaming fund established by IC 4-33-13.
- (5) Levy and collect penalties for noncriminal violations of this article.

(6) Deposit the penalties in the state gaming fund established by IC 4-33-13.

(7) Be present through the commission's inspectors and agents during the time gambling operations are conducted on a riverboat to do the following:

(A) Certify the revenue received by a riverboat.

(B) Receive complaints from the public.

(C) Conduct other investigations into the conduct of the gambling games and the maintenance of the equipment that the commission considers necessary and proper.

(D) With respect to riverboats that operate on Patoka Lake, ensure compliance with the following:

(i) IC 14-26-2-6.

(ii) IC 14-26-2-7.

(iii) IC 14-28-1.

(8) Adopt emergency rules under IC 4-22-2-37.1 if the commission determines that:

(A) the need for a rule is so immediate and substantial that rulemaking procedures under IC 4-22-2-13 through IC 4-22-2-36 are inadequate to address the need; and

(B) an emergency rule is likely to address the need.

(b) The commission shall begin rulemaking procedures under IC 4-22-2-13 through IC 4-22-2-36 to adopt an emergency rule adopted under subsection (a)(8) not later than thirty (30) days after the adoption of the emergency rule under subsection (a)(8).

SECTION 14. IC 5-4-1-4, AS AMENDED BY P.L.176-1999, SECTION 122, AND AS AMENDED BY P.L.254-1999, SECTION 5, IS AMENDED AND CORRECTED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) *As used in this section, "political subdivision" has the meaning set forth in IC 36-1-2-13.*

(b) The copy of the oath under section 2 of this chapter shall be deposited by the person as follows:

(1) Of all officers whose oath is endorsed on *or attached to* the commission and whose duties are not limited to a particular county *or of a justice, judge, or prosecuting attorney*, in the office of the secretary of state.

(2) Of ~~county~~ *the circuit court clerk, officers of a political subdivision or school corporation*, and constables of a small

claims court, in the circuit court clerk's office of the county containing the greatest percentage of the population of the political subdivision or school corporation.

(3) Of county council members; officers appointed by the board of county commissioners; and township officers that the board may require to do so; with the county auditor.

(4) Of township board members; with the township trustee.

(5) Of city officers; in the office of the clerk of the city-county council; city clerk; or city clerk-treasurer.

(6) Of deputies of the surveyor; in a book kept by the surveyor for this purpose.

(7) Of town officers; in the office of the town clerk-treasurer.

(8) Of a justice, judge; or prosecuting attorney; in the office of the secretary of state.

(9) Of a deputy prosecuting attorney, in the office of the clerk of the circuit court of the county in which the deputy prosecuting attorney resides or serves.

(10) Of a school board member; in the circuit court clerk's office of the county containing the greatest percentage of population of the school corporation.

SECTION 15. IC 6-1.1-11-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) The exemption application referred to in section 3 of this chapter is not required if the exempt property is owned by the United States, the state, an agency of this state, or a political subdivision (as defined in IC 36-1-2-13). However, this subsection applies only when the property is used, and in the case of real property occupied, by the owner.

(b) The exemption application referred to in section 3 of this chapter is not required if the exempt property is a cemetery:

(1) described by IC 6-1.1-2-7; or

(2) maintained by a township executive under ~~IC 23-14-27~~.
IC 23-14-68.

(c) The exemption application referred to in section 3 of this chapter is not required if the exempt property is owned by the bureau of motor vehicles commission established under IC 9-15-1.

(d) The exemption application referred to in section 3 of this chapter is not required if:

(1) the exempt property is:

- (A) tangible property used for religious purposes described in IC 6-1.1-10-21; or
- (B) tangible property owned by a church or religious society used for educational purposes described in IC 6-1.1-10-16; and
- (2) the exemption application referred to in section 3 of this chapter was filed properly at least once after the property was designated for a religious use as described in IC 6-1.1-10-21 or an educational use as described in IC 6-1.1-10-16.

However, if title to any of the real property subject to the exemption changes or any of the tangible property subject to the exemption is used for a nonexempt purpose after the date of the last properly filed exemption application, this subsection does not apply.

SECTION 16. IC 6-3-1-3.5, AS AMENDED BY P.L.128-1999, SECTION 1, P.L.238-1999, SECTION 1, P.L.249-1999, SECTION 1, P.L.257-1999, SECTION 1, AND P.L.273-1999, SECTION 51, IS AMENDED AND CORRECTED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999 (RETROACTIVE)]: Sec. 3.5. When used in IC 6-3, the term "adjusted gross income" shall mean the following:

(a) In the case of all individuals, "adjusted gross income" (as defined in Section 62 of the Internal Revenue Code), modified as follows:

- (1) Subtract income that is exempt from taxation under IC 6-3 by the Constitution and statutes of the United States.
- (2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 62 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States. *or for taxes on property levied by any subdivision of any state of the United States.*
- (3) Subtract one thousand dollars (\$1,000), or in the case of a joint return filed by a husband and wife, subtract for each spouse one thousand dollars (\$1,000).
- (4) Subtract one thousand dollars (\$1,000) for:
 - (A) each of the exemptions provided by Section 151(c) of the Internal Revenue Code;
 - (B) each additional amount allowable under Section 63(f) of the Internal Revenue Code; and
 - (C) the spouse of the taxpayer if a separate return is made by

the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(5) Subtract:

(A) *one thousand five hundred dollars* ~~(\$500)~~ *(\$1,500)* for each of the exemptions allowed under Section 151(c)(1)(B) of the Internal Revenue Code for taxable years beginning after December 31, 1996; ~~and before January 1, 2001;~~ and

(B) *five hundred dollars* *(\$500)* for each additional amount allowable under Section 63(f)(1) of the Internal Revenue Code if the adjusted gross income of the taxpayer, or the taxpayer and the taxpayer's spouse in the case of a joint return, is less than forty thousand dollars *(\$40,000)*.

This amount is in addition to the amount subtracted under subdivision (4).

(6) Subtract an amount equal to the lesser of:

(A) that part of the individual's adjusted gross income (as defined in Section 62 of the Internal Revenue Code) for that taxable year that is subject to a tax that is imposed by a political subdivision of another state and that is imposed on or measured by income; or

(B) two thousand dollars *(\$2,000)*.

(7) Add an amount equal to the total capital gain portion of a lump sum distribution (as defined in Section 402(e)(4)(D) of the Internal Revenue Code) if the lump sum distribution is received by the individual during the taxable year and if the capital gain portion of the distribution is taxed in the manner provided in Section 402 of the Internal Revenue Code.

(8) Subtract any amounts included in federal adjusted gross income under Internal Revenue Code Section 111 as a recovery of items previously deducted as an itemized deduction from adjusted gross income.

(9) Subtract any amounts included in federal adjusted gross income under the Internal Revenue Code which amounts were received by the individual as supplemental railroad retirement annuities under 45 U.S.C. 231 and which are not deductible under subdivision (1).

(10) Add an amount equal to the deduction allowed under Section

221 of the Internal Revenue Code for married couples filing joint returns if the taxable year began before January 1, 1987.

(11) Add an amount equal to the interest excluded from federal gross income by the individual for the taxable year under Section 128 of the Internal Revenue Code if the taxable year began before January 1, 1985.

(12) Subtract an amount equal to the amount of federal Social Security and Railroad Retirement benefits included in a taxpayer's federal gross income by Section 86 of the Internal Revenue Code.

(13) In the case of a nonresident taxpayer or a resident taxpayer residing in Indiana for a period of less than the taxpayer's entire taxable year, the total amount of the deductions allowed pursuant to subdivisions (3), (4), (5), and (6) shall be reduced to an amount which bears the same ratio to the total as the taxpayer's income taxable in Indiana bears to the taxpayer's total income.

(14) In the case of an individual who is a recipient of assistance under IC 12-10-6-1, IC 12-10-6-2, ~~IC 12-10-6-3~~, IC 12-15-2-2, or IC 12-15-7, subtract an amount equal to that portion of the individual's adjusted gross income with respect to which the individual is not allowed under federal law to retain an amount to pay state and local income taxes.

(15) In the case of an eligible individual, subtract the amount of a Holocaust victim's settlement payment included in the individual's federal adjusted gross income.

(16) For taxable years beginning after December 31, 1999, subtract an amount equal to the portion of any premiums paid during the taxable year by the taxpayer for a qualified long term care policy (as defined in IC 12-15-39.6-5) for the taxpayer or the taxpayer's spouse, or both.

(17) Subtract an amount equal to the lesser of:

(A) two thousand five hundred dollars (\$2,500); or

(B) the amount of property taxes that are paid during the taxable year in Indiana by the individual on the individual's principal place of residence.

(b) In the case of corporations, the same as "taxable income" (as defined in Section 63 of the Internal Revenue Code) adjusted as follows:

(1) Subtract income that is exempt from taxation under IC 6-3 by

the Constitution and statutes of the United States.

(2) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 170 of the Internal Revenue Code.

(3) Add an amount equal to any deduction or deductions allowed or allowable pursuant to Section 63 of the Internal Revenue Code for taxes based on or measured by income and levied at the state level by any state of the United States. *or for taxes on property levied by any subdivision of any state of the United States.*

(4) Subtract an amount equal to the amount included in the corporation's taxable income under Section 78 of the Internal Revenue Code.

(c) In the case of trusts and estates, "taxable income" (as defined for trusts and estates in Section 641(b) of the Internal Revenue Code) reduced by income that is exempt from taxation under IC 6-3 by the Constitution and statutes of the United States.

SECTION 17. IC 6-3-3-10, AS AMENDED BY P.L.120-1999, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) As used in this section:

"Base period wages" means the following:

(1) In the case of a taxpayer other than a pass through entity, wages paid or payable by a taxpayer to its employees during the year that ends on the last day of the month that immediately precedes the month in which an enterprise zone is established, to the extent that the wages would have been qualified wages if the enterprise zone had been in effect for that year. If the taxpayer did not engage in an active trade or business during that year in the area that is later designated as an enterprise zone, then the base period wages equal zero (0). If the taxpayer engaged in an active trade or business during only part of that year in an area that is later designated as an enterprise zone, then the department shall determine the amount of base period wages.

(2) In the case of a taxpayer that is a pass through entity, base period wages equal zero (0).

"Enterprise zone" means an enterprise zone created under IC 4-4-6.1.

"Enterprise zone adjusted gross income" means adjusted gross income of a taxpayer that is derived from sources within an enterprise

zone. Sources of adjusted gross income shall be determined with respect to an enterprise zone, to the extent possible, in the same manner that sources of adjusted gross income are determined with respect to the state of Indiana under IC 6-3-2-2.

"Enterprise zone gross income" means gross income of a taxpayer that is derived from sources within an enterprise zone.

"Enterprise zone insurance premiums" means insurance premiums derived from sources within an enterprise zone.

"Monthly base period wages" means base period wages divided by twelve (12).

"Pass through entity" means a:

- (1) corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);
- (2) partnership;
- (3) trust;
- (4) limited liability company; or
- (5) limited liability partnership.

"Qualified employee" means an individual who is employed by a taxpayer and who:

- (1) has his principal place of residence in the enterprise zone in which he is employed;
- (2) performs services for the taxpayer, ninety percent (90%) of which are directly related to the conduct of the taxpayer's trade or business that is located in an enterprise zone;
- (3) performs at least fifty percent (50%) of his services for the taxpayer during the taxable year in the enterprise zone; and
- (4) in the case of an individual who is employed by a taxpayer that is a pass through entity, ~~the individual~~ was first employed by the taxpayer after December 31, 1998.

"Qualified increased employment expenditures" means the following:

- (1) For a taxpayer's taxable year other than his taxable year in which the enterprise zone is established, the amount by which qualified wages paid or payable by the taxpayer during the taxable year to qualified employees exceeds the taxpayer's base period wages.
- (2) For the taxpayer's taxable year in which the enterprise zone is established, the amount by which qualified wages paid or payable

by the taxpayer during all of the full calendar months in the taxpayer's taxable year that succeed the date on which the enterprise zone was established exceed the taxpayer's monthly base period wages multiplied by that same number of full calendar months.

"Qualified state tax liability" means a taxpayer's total income tax liability incurred under:

- (1) IC 6-2.1 (gross income tax) with respect to enterprise zone gross income;
- (2) IC 6-3-1 through IC 6-3-7 (adjusted gross income tax) with respect to enterprise zone adjusted gross income;
- (3) IC 27-1-18-2 (insurance premiums tax) with respect to enterprise zone insurance premiums; and
- (4) IC 6-5.5 (the financial institutions tax);

as computed after the application of the credits that, under IC 6-3.1-1-2, are to be applied before the credit provided by this section.

"Qualified wages" means the wages paid or payable to qualified employees during a taxable year.

"Taxpayer" includes a pass through entity.

(b) A taxpayer is entitled to a credit against the taxpayer's qualified state tax liability for a taxable year in the amount of the lesser of:

- (1) the product of ten percent (10%) multiplied by the qualified increased employment expenditures of the taxpayer for the taxable year; or
- (2) one thousand five hundred dollars (\$1,500) multiplied by the number of qualified employees employed by the taxpayer during the taxable year.

(c) The amount of the credit provided by this section that a taxpayer uses during a particular taxable year may not exceed the taxpayer's qualified state tax liability for the taxable year. If the credit provided by this section exceeds the amount of that tax liability for the taxable year it is first claimed, then the excess may be carried back to preceding taxable years or carried over to succeeding taxable years and used as a credit against the taxpayer's qualified state tax liability for those taxable years. Each time that the credit is carried back to a preceding taxable year or carried over to a succeeding taxable year, the amount of the carryover is reduced by the amount used as a credit for that

taxable year. Except as provided in subsection (e), the credit provided by this section may be carried forward and applied in the ten (10) taxable years that succeed the taxable year in which the credit accrues. The credit provided by this section may be carried back and applied in the three (3) taxable years that precede the taxable year in which the credit accrues.

(d) A credit earned by a taxpayer in a particular taxable year shall be applied against the taxpayer's qualified state tax liability for that taxable year before any credit carryover or carryback is applied against that liability under subsection (c).

(e) Notwithstanding subsection (c), if a credit under this section results from wages paid in a particular enterprise zone, and if that enterprise zone terminates in a taxable year that succeeds the last taxable year in which a taxpayer is entitled to use the credit carryover that results from those wages under subsection (c), then the taxpayer may use the credit carryover for any taxable year up to and including the taxable year in which the enterprise zone terminates.

(f) A taxpayer is not entitled to a refund of any unused credit.

(g) A taxpayer that:

- (1) does not own, rent, or lease real property outside of an enterprise zone that is an integral part of its trade or business; and
- (2) is not owned or controlled directly or indirectly by a taxpayer that owns, rents, or leases real property outside of an enterprise zone;

is exempt from the allocation and apportionment provisions of this section.

(h) If a pass through entity is entitled to a credit under subsection (b) but does not have state tax liability against which the tax credit may be applied, an individual who is a shareholder, partner, beneficiary, or member of the pass through entity is entitled to a tax credit equal to:

- (1) the tax credit determined for the pass through entity for the taxable year; multiplied by
- (2) the percentage of the pass through entity's distributive income to which the shareholder, partner, beneficiary, or member is entitled.

The credit provided under this subsection is in addition to a tax credit to which a shareholder, partner, beneficiary, or member of a pass through entity is entitled. However, a pass through entity and an

individual who is a shareholder, partner, beneficiary, or member of a pass through entity may not claim more than one (1) credit for the qualified expenditure.

SECTION 18. IC 6-3.5-7-12, AS AMENDED BY P.L.124-1999, SECTION 1, AND AS AMENDED BY P.L.273-1999, SECTION 74, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000 (RETROACTIVE)]: Sec. 12. (a) *Except as provided in section 23 of this chapter*, the county auditor shall distribute in the manner specified in this section the certified distribution to the county.

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

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

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

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

(B) *For a county, an amount equal to the property taxes imposed by the county in 1999 for the county's welfare fund and welfare administration fund.*

The denominator of the fraction equals the sum of the total property taxes that are first due and payable to the county and all cities and towns of the county during the calendar year in which the month falls, plus an amount equal to the property taxes imposed by the county in 1999 for the county's welfare fund and welfare administration fund.

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

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

(2) The amount of the certified distribution that the county and each city and town in the county is entitled to receive during May

and November of each year equals the product of:

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

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

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

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

(1) The county.

(2) A city or town in the county.

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

(e) The state board of tax commissioners shall provide each county auditor with the fractional amount of the certified distribution that the county and each city or town in the county is entitled to receive under this section.

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

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

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

SECTION 19. IC 6-6-5.5-2, AS ADDED BY P.L.181-1999, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

UPON PASSAGE]: Sec. 2. (a) Except as provided in subsection (b), this chapter applies to all commercial vehicles.

(b) This chapter does not apply to the following:

- (1) Vehicles owned or leased and operated by the United States, the state, or political subdivisions of the state.
- (2) Mobile homes and motor homes.
- (3) Vehicles assessed under IC 6-1.1-8.
- (4) Buses subject to apportioned registration under the International Registration Plan.
- (5) Vehicles subject to taxation under IC 6-6-5.
- (6) Vehicles owned or leased and operated by an institution of higher education (as defined in IC 6-3-3-5(d)).
- (7) Vehicles owned or leased and operated by a volunteer fire **company department** (as defined in IC 36-8-12-2).
- (8) Vehicles owned or leased and operated by a volunteer emergency ambulance service that:
 - (A) meets the requirements of IC 16-31; and
 - (B) has only members that serve for no compensation or a nominal annual compensation of not more than three thousand five hundred dollars (\$3,500).
- (9) Vehicles that are exempt from the payment of registration fees under IC 9-18-3-1.
- (10) Farm wagons.
- (11) A vehicle in the inventory of vehicles held for sale by a manufacturer, distributor, or dealer in the course of business.

SECTION 20. IC 6-6-5.5-7, AS ADDED BY P.L.181-1999, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) For calendar years that begin after December 31, 2000, the annual excise tax for a commercial vehicle will be determined by the motor carrier services division on or before October 1 of each year in accordance with the following formula:

STEP ONE: Determine the total amount of base revenue to be distributed from the commercial vehicle excise tax fund to all taxing units in Indiana during the calendar year for which the tax is first due and payable. For calendar year 2001, the total amount of base revenue for all taxing units shall be determined as provided in section 19 of this chapter. For calendar years that begin after December 31, 2001, the total amount of base revenue

for all taxing units shall be determined by multiplying the previous year's base revenue for all taxing units by one hundred ~~and~~ five percent (105%).

STEP TWO: Determine the sum of fees paid to register the following commercial vehicles in Indiana under the following statutes during the fiscal year that ends ~~on~~ June 30 immediately preceding the calendar year for which the tax is first due and payable:

- (A) Total registration fees collected under IC 9-29-5-3 for commercial vehicles with a declared gross weight in excess of eleven thousand (11,000) pounds, including trucks, tractors not used with semitrailers, traction engines, and other similar vehicles used for hauling purposes;
- (B) Total registration fees collected under IC 9-29-5-5 for tractors used with semitrailers;
- (C) Total registration fees collected under IC 9-29-5-6 for semitrailers used with tractors;
- (D) Total registration fees collected under IC 9-29-5-4 for trailers having a declared gross weight in excess of three thousand (3,000) pounds; and
- (E) Total registration fees collected under IC 9-29-5-13 for trucks, tractors and semitrailers used in connection with agricultural pursuits usual and normal to the user's farming operation, multiplied by two hundred percent (200%);

STEP THREE: Determine the tax factor by dividing the STEP ONE result by the STEP TWO result.

(b) Except as otherwise provided in this chapter, the annual excise tax for commercial vehicles with a declared gross weight in excess of eleven thousand (11,000) pounds, including trucks, tractors not used with semitrailers, traction engines, and other similar vehicles used for hauling purposes, shall be determined by multiplying the registration fee under IC 9-29-5-3 by the tax factor determined in subsection (a).

(c) Except as otherwise provided in this chapter, the annual excise tax for tractors used with semitrailers shall be determined by multiplying the registration fee under IC 9-29-5-5 by the tax factor determined in subsection (a).

(d) Except as otherwise provided in this chapter, the annual excise tax for trailers having a declared gross weight in excess of three

thousand (3,000) pounds shall be determined by multiplying the registration fee under IC 9-29-5-4 by the tax factor determined in subsection (a).

(e) The annual excise tax for a semitrailer shall be determined by multiplying the average annual registration fee under IC 9-29-5-6 by the tax factor determined in subsection (a). The average annual registration fee for a semitrailer under IC 9-29-5-6 is sixteen dollars and seventy-five cents (\$16.75).

(f) The annual excise tax determined under this section shall be rounded upward to the next full dollar amount.

SECTION 21. IC 6-6-5.5-19, AS ADDED BY P.L.181-1999, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. (a) As used in this section, "assessed value" means an amount equal to the true tax value of commercial vehicles that:

(1) are subject to the commercial vehicle excise tax under this chapter; and

(2) would have been subject to assessment as personal property on March 1, 2000, under the law in effect before January 1, 2000.

(b) For calendar year 2001, a taxing unit's base revenue shall be determined as provided in subsection (f). For calendar years that begin after December 31, 2001, a taxing unit's base revenue shall be determined by multiplying the previous year's base revenue by one hundred ~~and~~ five percent (105%).

(c) The amount of commercial vehicle excise tax distributed to the taxing units of Indiana from the commercial vehicle excise tax fund shall be determined in the manner provided in this section. On or before June 1, 2000, each township assessor of a county shall deliver to the county assessor a list that states by taxing district the total assessed value as shown on the information returns filed with the assessor on or before May 15, 2000.

(d) On or before July 1, 2000, each county assessor shall certify to the county auditor the assessed value of commercial vehicles in every taxing district.

(e) On or before August 1, 2000, the county auditor shall certify the following to the state board of tax commissioners:

(1) The total assessed value of commercial vehicles in the county.

(2) The total assessed value of commercial vehicles in each taxing

district of the county.

(f) The state board of tax commissioners shall determine each taxing unit's base revenue by applying the current tax rate for each taxing district to the certified assessed value from each taxing district. The state board of tax commissioners shall also determine the following:

(1) The total amount of base revenue to be distributed from the commercial vehicle excise tax fund in 2001 to all taxing units in Indiana.

(2) The total amount of base revenue to be distributed from the commercial vehicle excise tax fund in 2001 to all taxing units in each county.

(3) Each county's total distribution percentage. A county's total distribution percentage shall be determined by dividing the total amount of base revenue to be distributed in 2001 to all taxing units in the county by the total base revenue to be distributed statewide.

(4) Each taxing unit's distribution percentage. A taxing unit's distribution percentage shall be determined by dividing each taxing unit's base revenue by the total amount of base revenue to be distributed in 2001 to all taxing units in the county.

(g) The state board of tax commissioners shall certify each taxing unit's base revenue and distribution percentage for calendar year 2001 to the auditor of state on or before September 1, 2000.

(h) The auditor of state shall keep permanent records of each taxing unit's base revenue and distribution percentage for calendar year 2001 for purposes of determining the amount of money each taxing unit in Indiana is entitled to receive in calendar years that begin after December 31, 2001.

SECTION 22. IC 6-9-32-3, AS ADDED BY P.L.3-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The fiscal body of a county may levy a tax on every person engaged in the business of renting or furnishing, for periods of less than thirty (30) days, any room or rooms, lodgings, or accommodations in any:

(1) hotel;

(2) motel;

(3) boat motel;

(4) inn; **or**

- (5) college or university memorial union;
- (6) college or university residence hall or dormitory; or
- (7) tourist cabin;

located in the county.

(b) The tax does not apply to gross income received in a transaction in which

(1) a student rents lodgings in a college or university residence hall while that student participates in a course of study for which the student receives college credit from a college or university located in the county; or

(2) a person rents a room, lodging, or accommodations for a period of thirty (30) days or more.

(c) The tax may not exceed the rate of five percent (5%) on the gross retail income derived from lodging income only and is in addition to the state gross retail tax imposed under IC 6-2.5.

(d) The county fiscal body may adopt an ordinance to require that the tax be reported on forms approved by the county treasurer and that the tax shall be paid monthly to the county treasurer. If such an ordinance is adopted, the tax shall be paid to the county treasurer not more than twenty (20) days after the end of the month the tax is collected. If such an ordinance is not adopted, the tax shall be imposed, paid, and collected in exactly the same manner as the state gross retail tax is imposed, paid, and collected under IC 6-2.5.

(e) All of the provisions of IC 6-2.5 relating to rights, duties, liabilities, procedures, penalties, definitions, exemptions, and administration are applicable to the imposition and administration of the tax imposed under this section except to the extent those provisions are in conflict or inconsistent with the specific provisions of this chapter or the requirements of the county treasurer. If the tax is paid to the department of state revenue, the return to be filed for the payment of the tax under this section may be either a separate return or may be combined with the return filed for the payment of the state gross retail tax as the department of state revenue may, by rule, determine.

(f) If the tax is paid to the department of state revenue, the amounts received from the tax imposed under this section shall be paid monthly by the treasurer of state to the county treasurer upon warrants issued by the auditor of state.

SECTION 23. IC 6-9-32-4, AS ADDED BY P.L.3-1999, SECTION

1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) The county treasurer shall establish a convention, visitor, and tourism promotion fund. The treasurer shall deposit in this fund all amounts the treasurer receives under ~~that section~~. **section 3 of this chapter.**

(b) The county auditor shall issue a warrant directing the county treasurer to transfer money from the convention, visitor, and tourism promotion fund to the treasurer of the commission established under section 5 of this chapter if the commission submits a written request for the transfer.

(c) Money in a convention, visitor, and tourism promotion fund, or money transferred from such a fund under subsection (b), may be expended:

- (1) to promote and encourage conventions, visitors, and tourism within the county; and
- (2) to promote and encourage industrial and economic development within the county. However, the county may not expend more than twenty-five percent (25%) of the revenues from the tax imposed under section 3 of this chapter to promote and encourage industrial and economic development.

Expenditures under subdivision (1) may include, but are not limited to, expenditures for advertising, promotional activities, trade shows, special events, and recreation.

(d) If before July 1, 1997, the county issued a bond with a pledge of revenues from the tax imposed under IC 6-9-18-3, the county shall continue to expend money from the fund for that purpose until the bond is paid.

SECTION 24. IC 7.1-3-12-3, AS AMENDED BY P.L.36-1999, SECTION 1, AND AS AMENDED BY P.L.201-1999, SECTION 2, IS AMENDED AND CORRECTED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. *Small Farm Winery Permit*: The commission may issue a *small farm* winery permit to a person who is the proprietor of a *small farm* winery and who desires to commercially manufacture wine. A *small farm* winery permit shall be valid from July 1, of the then current year to June 30, of the following year. *IC 7.1-3-21-5 does not apply to a small farm winery permit issued under this chapter. The commission may not issue a small farm winery permit to a person who has not been a continuous and bona*

fide resident of Indiana for at least one (1) year preceding the date of the application for a ~~small~~ farm winery permit.

SECTION 25. IC 8-1-17-7, AS AMENDED BY P.L.145-1999, SECTION 2, AND AS AMENDED BY P.L.198-1999, SECTION 4, IS AMENDED AND CORRECTED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) Each cooperative corporation formed under this chapter shall have a board of directors, which board shall constitute the governing body of the cooperative corporation. The directors of a local cooperative corporation must be members, *or if the cooperative corporation's bylaws so provide, a member's officers, directors, or partners, or the owner of a member that is a sole proprietorship may be directors* of the cooperative corporation. Directors other than those named in the cooperative corporation's articles of incorporation shall be elected by ~~its~~ *the cooperative corporation's* members.

(b) Unless the bylaws of the cooperative corporation provide otherwise, such directors shall be elected annually. The bylaws may provide that the directors may hold office for any stated period not exceeding three (3) years, and be so elected that the terms of only part of such directors shall expire at any one (1) time and that only enough directors to succeed those whose terms are about to expire need be elected in any year.

(c) The bylaws may provide that the area in which the members of the cooperative corporation reside shall be apportioned into districts and prescribe the procedure by which the members residing in any one (1) district may nominate a director.

(d) The bylaws may specify a fair remuneration for the time actually spent by its officers, directors, and members of its executive committee in the performance of their duties as such and provide that the same be paid them respectively. The officers, directors, and members of the executive committee shall be entitled to reimbursement for expenses incurred by them in the performance of their duties whether or not the bylaws provide that they be remunerated for their time spent in such performance.

(e) The board shall annually designate and elect those officers it considers necessary.

SECTION 26. IC 9-24-2-3.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3.1. (a) If a

petitioner named in an order issued under ~~section 3(a)(10)~~ **section 3(a)(8)** of this chapter has a valid commercial driving license, the bureau shall not immediately suspend the driving license but indicate on the driver's record that the person has a conditional license to operate a motor vehicle to and from the person's place of employment and in the course of the person's employment.

(b) A conditional license described in subsection (a) is valid for thirty (30) days from the date of the notice sent by the bureau. If the person obtains an amended license within the thirty (30) days, the person may continue to operate a motor vehicle on the conditional license beyond the thirty (30) day period.

(c) If the person does not obtain an amended license within the thirty (30) day period, the bureau shall suspend the person's license.

SECTION 27. IC 12-7-2-91, AS AMENDED BY P.L.273-1999, SECTION 60, AND AS AMENDED BY P.L.273-1999, SECTION 164, IS AMENDED AND CORRECTED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000 (RETROACTIVE)]: Sec. 91. "Fund" means the following:

- (1) For purposes of IC 12-12-1-9, the fund described in IC 12-12-1-9.
- (2) For purposes of IC 12-13-8, the meaning set forth in IC 12-13-8-1.
- (3) For purposes of IC 12-15-20, the meaning set forth in IC 12-15-20-1.
- (4) For purposes of IC 12-17-12, the meaning set forth in IC 12-17-12-4.
- (5) *For purposes of IC 12-17.6, the meaning set forth in IC 12-17.6-1-3.*
- ~~(5)~~ (6) For purposes of IC 12-18-4, the meaning set forth in IC 12-18-4-1.
- ~~(6)~~ (7) For purposes of IC 12-18-5, the meaning set forth in IC 12-18-5-1.
- ~~(7)~~ (8) *For purposes of IC 12-19-3, the meaning set forth in IC 12-19-3-1.*
- ~~(8)~~ (9) *For purposes of IC 12-19-4, the meaning set forth in IC 12-19-4-1.*
- ~~(9)~~ ~~(10)~~ ~~(7)~~ (8) For purposes of IC 12-19-7, the meaning set forth in IC 12-19-7-2.

~~(10)~~ ~~(11)~~ ~~(8)~~ **(9)** For purposes of IC 12-23-2, the meaning set forth in IC 12-23-2-1.

~~(11)~~ ~~(12)~~ ~~(9)~~ **(10)** For purposes of IC 12-24-6, the meaning set forth in IC 12-24-6-1.

~~(12)~~ ~~(13)~~ ~~(10)~~ **(11)** For purposes of IC 12-24-14, the meaning set forth in IC 12-24-14-1.

~~(13)~~ ~~(14)~~ ~~(11)~~ **(12)** For purposes of IC 12-30-7, the meaning set forth in IC 12-30-7-3.

SECTION 28. IC 12-7-2-149, AS AMENDED BY P.L.273-1999, SECTION 78, AND AS AMENDED BY P.L.273-1999, SECTION 167, IS AMENDED AND CORRECTED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000 (RETROACTIVE)]: Sec. 149. "Provider" means the following:

(1) For purposes of IC 12-10-7, the meaning set forth in IC 12-10-7-3.

(2) For purposes of the following statutes, an individual, a partnership, a corporation, or a governmental entity that is enrolled in the Medicaid program under rules adopted under IC 4-22-2 by the office of Medicaid policy and planning:

(A) IC 12-14-1 through ~~IC 12-14-9~~; IC 12-14-9.5.

(B) IC 12-15, except IC 12-15-32, IC 12-15-33, and IC 12-15-34.

(C) IC 12-17-10.

(D) IC 12-17-11.

(E) IC 12-17.6.

(3) For purposes of IC 12-17-9, the meaning set forth in IC 12-17-9-2.

~~(4) For purposes of IC 12-17-18, the meaning set forth in IC 12-17-18-2.~~

~~(5)~~ For the purposes of IC 12-17.2, a person who operates a child care center or child care home under IC 12-17.2.

~~(6)~~ **(5)** For purposes of IC 12-17.4, a person who operates a child caring institution, foster family home, group home, or child placing agency under IC 12-17.4.

SECTION 29. IC 12-11-2.1-3, AS ADDED BY P.L.272-1999, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. All services provided to an individual must be provided under the developmentally disabled individual's individual

service plan. To the extent that services described in ~~IC 12-11-1-1(e)~~ **IC 12-11-1-1(e)** are available and meet the individual's needs, services provided to an individual shall be provided in the least restrictive environment possible.

SECTION 30. IC 12-15-37-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. If the state department of health and the office seek a waiver under this chapter to establish a managed care program or other demonstration project, the state department of health and the office shall not seek a waiver of:

- (1) federally qualified health centers and rural health clinic services as mandatory Medicaid services under:
 - (A) 42 U.S.C. 1396a(10)(A);
 - (B) 42 U.S.C. 1396d(a)(2)(B); and
 - (C) 42 U.S.C. 1396d(a)(2)(C); or
- (2) reasonable cost reimbursement for federally qualified health centers and rural health clinics under ~~42 U.S.C. 1396a(a)(13)(E)~~; **42 U.S.C. 1396a(a)(13)(C)**.

SECTION 31. IC 12-17-15-13, AS AMENDED BY P.L.121-1999, SECTION 7, AND AS AMENDED BY P.L.272-1999, SECTION 43, IS AMENDED AND CORRECTED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. The council shall meet at least quarterly *each year*.

SECTION 32. IC 12-17-15-18, AS AMENDED BY P.L.121-1999, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. To the extent required in 20 U.S.C. 1431 through 1445, the statewide system must include the following:

- (1) A definition of the term "developmentally delayed" to be used in carrying out the programs under this chapter.
- (2) The timetables necessary for ensuring that the appropriate early intervention services are available to all infants and toddlers with disabilities before the beginning of the fifth year of the state's participation under 20 U.S.C. 1431 through 1445.
- (3) A timely, comprehensive, multidisciplinary evaluation of the functioning of each infant and toddler with disabilities in Indiana and the needs of the families to appropriately assist in the development of the infant and toddler with disabilities program.
- (4) For each infant and toddler with disabilities in Indiana, an individualized family service plan in accordance with 20 U.S.C.

1436, including case management services consistent with the individualized family service plan.

(5) A comprehensive system for identifying infants and toddlers with disabilities, including a system for making referrals to service providers that:

(A) includes time lines; and

(B) provides for the participation by primary referral sources.

(6) A public awareness program.

(7) A central directory that includes early intervention services, resources, experts, and research and demonstration projects being conducted.

(8) A comprehensive system of personnel development.

(9) A policy pertaining to the contracting or making of other arrangements with service providers to provide early intervention services in Indiana, consistent with 20 U.S.C. 1431 through 1445 and including the contents of the application used and the conditions of the contract or other arrangements.

(10) A procedure for securing timely reimbursement of funds used under this chapter in accordance with 20 U.S.C. 1440(a).

(11) Procedural safeguards with respect to programs under this chapter as required under 20 U.S.C. 1439.

(12) Policies and procedures relating to the establishment and maintenance of standards to ensure that personnel necessary to carry out this chapter are appropriately and adequately prepared and trained, including the following:

(A) The establishment and maintenance of standards that are consistent with any state approved or recognized certification, licensing, registration, or other comparable requirements that apply to the area in which the personnel are providing early intervention services.

(B) To the extent the standards are not based on the highest requirements in Indiana applicable to the specific profession or discipline, the steps the state is taking to require the retraining or hiring of personnel that meet appropriate professional requirements in Indiana.

(13) A system for compiling data on the following:

(A) The numbers of infants and toddlers with disabilities and their families in Indiana in need of appropriate early

intervention services, which may be based on a sampling of data.

(B) The numbers of infants and toddlers and their families served.

(C) The types of services provided, which may be based on a sampling of data.

(D) Other information required under 20 U.S.C. 1431 through **1445.**

SECTION 33. IC 12-26-2-5, AS AMENDED BY P.L.256-1999, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) This section applies under the following statutes:

(1) IC 12-26-6.

(2) IC 12-26-7.

(3) IC 12-26-12.

(4) IC 12-26-15.

(b) A petitioner may be represented by counsel.

(c) The court may appoint counsel for a petitioner upon a showing of the petitioner's indigency and the court shall pay for such counsel if appointed.

(d) A petitioner, including a petitioner who is a health care provider under IC 16-18-2-295(a), in the petitioner's individual capacity or as a corporation is not required to be represented by counsel. If a petitioner who is a corporation elects not to be represented by counsel, the individual representing the corporation at the commitment hearing must present the court with written authorization from:

(1) an officer;

(2) a director;

(3) a principal; or

(4) a manager;

of the corporation that authorizes the individual to represent the interest of the corporation in the proceedings.

(e) The petitioner is required to prove by clear and convincing evidence that:

(1) the individual is mentally ill and either dangerous or gravely disabled; and

(2) detention or commitment of that individual is appropriate.

SECTION 34. IC 13-11-2-116, AS AMENDED BY P.L.30-1999,

SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 116. (a) "Landfill", for purposes of IC 13-20-2, means a solid waste disposal facility at which solid waste is deposited on or beneath the surface of the ground as an intended place of final location.

(b) "Landfill", for purposes of ~~IC 13-11-2-114.2~~ **section 114.2 of this chapter** and IC 13-20-11, means a facility operated under a permit issued under IC 13-15-3 or IC 13-7-10 (before its repeal) at which solid waste is disposed of by placement on or under the surface of the ground.

(c) "Landfill", for purposes of ~~IC 13-11-2-82~~ **section 82 of this chapter** and IC 13-21, means a solid waste management disposal facility at which solid waste is deposited on or in the ground as an intended place of final location. The term does not include the following:

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

SECTION 35. IC 13-11-2-177.3, AS AMENDED BY P.L.132-1999, SECTION 8, AND AS AMENDED BY P.L.220-1999, SECTION 1, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 177.3. "Public water system", *for purposes of this chapter and IC 13-18-21*, has the meaning set forth in 42 U.S.C. 300f.

SECTION 36. IC 13-15-7-1, AS AMENDED BY P.L.224-1999, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. Except as provided in sections 2 **and 4 and 5** of this chapter, the commissioner or a designated staff member may revoke or modify a permit granted by the department under

environmental management laws or IC 13-7 (before its repeal) for any of the following causes:

- (1) Violation of any condition of the permit.
- (2) Failure to disclose all of the relevant facts.
- (3) Any misrepresentation made in obtaining the permit.
- (4) Changes in circumstances relating to the permit that require either a temporary or permanent reduction in the discharge of contaminants.
- (5) Any other change, situation, or activity relating to the use of a permit that, in the judgment of the department, is not consistent with the following:

- (A) The purposes of this title.
- (B) Rules adopted by one (1) of the boards.

SECTION 37. IC 13-19-3-7, AS AMENDED BY P.L.30-1999, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. The department and the boards shall allow a person to use foundry sand that meets Type III criteria under 329 IAC 10-9 for the following activities in accordance with guidance without requiring the person to obtain any permits from the department:

- (1) As a daily cover for litter and vermin control at a landfill in accordance with any applicable permits issued for the landfill.
- (2) As a protective cover for a landfill leachate system in accordance with any applicable permits issued for the landfill.
- (3) For use as capped embankments for ground and sight barriers under ten thousand (10,000) cubic yards or embankments for airports, bridges, or overpasses.

(4) For use: ~~in~~

- (A) ~~in~~ a land application operation; or
- (B) as a soil amendment;

if the application or amendment does not include the operation of a landfill.

(5) As a structural fill base capped by clay, asphalt, or concrete for the following:

- (A) Roads.
- (B) Road shoulders.
- (C) Parking lots.
- (D) Floor slabs.

- (E) Utility trenches.
 - (F) Bridge abutments.
 - (G) Tanks and vaults.
 - (H) Construction or architectural fill.
 - (I) Other similar uses.
- (6) As a raw material constituent incorporated into another product, including the following:
- (A) Flowable fill.
 - (B) Concrete.
 - (C) Asphalt.
 - (D) Brick.
 - (E) Block.
 - (F) Portland cement.
 - (G) Glass.
 - (H) Roofing materials.
 - (I) Rock wool.
 - (J) Plastics.
 - (K) Fiberglass.
 - (L) Mineral wool.
 - (M) Lightweight aggregate.
 - (N) Paint.
 - (O) Plaster.
 - (P) Other similar products.

SECTION 38. IC 14-21-1-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 27. (a) A person who disturbs buried human remains shall do the following:

- (1) Notify the department within two (2) business days of the time of the disturbance.
- (2) Treat or rebury the human remains in a manner and place according to rules adopted by the commission or a court order and permit issued by the state department of health under ~~IC 23-14-56~~. **IC 23-14-57.**

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

SECTION 39. IC 14-22-11-15, AS AMENDED BY P.L.23-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) Each license and permit issued under this article is issued upon the express condition, to which the licensee

or permittee by acceptance of the license or permit is considered to agree and consent, that the licensee or permittee will obey and comply with the following:

- (1) All the terms, conditions, and rules:
 - (A) made by the director under this article; and
 - (B) incorporated in or attached to the license or permit when issued.

(2) This article.

(3) A wildlife law (as defined by ~~IC 14-22-41-4(r)~~ **IC 14-22-41-4(p)**) while the licensee is in another jurisdiction that has adopted the wildlife violator compact (IC 14-22-41).

(b) A license or permit may be revoked by the director at any time without refund for any of the following:

(1) Failure to comply with or violation of the terms, conditions, rules, or restrictions incorporated in or attached to the license or permit when issued.

(2) Violation of this article.

(3) Violation of a wildlife law (as defined by ~~IC 14-22-41-4(r)~~ **IC 14-22-41-4(p)**) while the licensee is in another jurisdiction that has adopted the wildlife violator compact (IC 14-22-41).

(c) A person whose license or permit has been revoked by the director under this article may, by written request to the director, have a hearing on the revocation. Upon receipt of written request for a hearing on the revocation, the director shall do the following:

(1) Set a date for the hearing, which may not be more than fifteen (15) days from the date of receipt of the request.

(2) Give the person requesting the hearing at least five (5) days notice of the date of the hearing, which shall be held in the office of the director.

(3) Receive and keep a record of all evidence presented by the person.

(4) After considering the evidence presented at the hearing, rescind or affirm the order revoking the license or permit.

(d) Every court having jurisdiction of an offense committed in violation of an Indiana law for the protection of wildlife may, at the court's discretion, revoke the license of the offender for any of the following periods:

(1) Thirty (30) days.

- (2) Sixty (60) days.
- (3) Ninety (90) days.
- (4) One (1) year.

(e) After a revocation, the court shall forward to the division a record of the conviction of the person in the court for a violation of the law. At the time of the conviction, the court shall do the following:

- (1) Obtain the license certificate of the defendant.
- (2) Return the license certificate to the division.

SECTION 40. IC 14-22-12-1, AS AMENDED BY P.L.140-1999, SECTION 1, AND AS AMENDED BY P.L.219-1999, SECTION 1, IS AMENDED AND CORRECTED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. The department may issue the following licenses and shall charge the following license fees to hunt, trap, or fish in Indiana:

- (1) A resident yearly license to fish, eight dollars and seventy-five cents (\$8.75).
- (2) A resident yearly license to hunt, eight dollars and seventy-five cents (\$8.75).
- (3) A resident yearly license to hunt and fish, thirteen dollars and seventy-five cents (\$13.75).
- (4) A resident yearly license to trap, eight dollars and seventy-five cents (\$8.75).
- (5) A nonresident yearly license to fish, ~~fifteen dollars and seventy-five cents (\$15.75)~~; *twenty-four dollars and seventy-five cents (\$24.75)*.
- (6) A nonresident yearly license to hunt, ~~forty dollars and seventy-five cents (\$40.75)~~; *sixty dollars and seventy-five cents (\$60.75)*.
- (7) A nonresident yearly license to trap, ~~seventy-six dollars and seventy-five cents (\$76.75)~~; *one hundred seventeen dollars and seventy-five cents (\$117.75)*. However, a license may not be issued to a resident of another state if that state does not give reciprocity rights to Indiana residents similar to those nonresident trapping privileges extended in Indiana.
- (8) A resident or nonresident license to fish, including for trout and salmon, for one (1) day only, four dollars and seventy-five cents (\$4.75).
- (9) A nonresident license to fish, excluding for trout and salmon,

as follows:

- (A) For three (3) days only, six dollars and seventy-five cents (\$6.75).*
- (B) for seven (7) days only, eight dollars and seventy-five cents (\$8.75); twelve dollars and seventy-five cents (\$12.75).*
- (10) A nonresident license to hunt for five (5) consecutive days only, *thirteen dollars and seventy-five cents (\$13.75); twenty-five dollars and seventy-five cents (\$25.75).*
- (11) A resident or nonresident yearly stamp to fish for trout and salmon, six dollars and seventy-five cents (\$6.75).
- (12) A resident yearly license to take a deer with a shotgun, muzzle loading gun, or handgun, thirteen dollars and seventy-five cents (\$13.75).
- (13) A resident yearly license to take a deer with a muzzle loading gun, thirteen dollars and seventy-five cents (\$13.75).
- (14) A resident yearly license to take a deer with a bow and arrow, thirteen dollars and seventy-five cents (\$13.75).
- (15) A nonresident yearly license to take a deer with a shotgun, muzzle loading gun, or handgun, *seventy-six dollars and seventy-five cents (\$76.75); one hundred twenty dollars and seventy-five cents (\$120.75).*
- (16) A nonresident yearly license to take a deer with a muzzle loading gun, *seventy-six dollars and seventy-five cents (\$76.75); one hundred twenty dollars and seventy-five cents (\$120.75).*
- (17) A nonresident yearly license to take a deer with a bow and arrow, *seventy-six dollars and seventy-five cents (\$76.75); one hundred twenty dollars and seventy-five cents (\$120.75).*
- (18) A resident license to take an extra deer by a means, in a location, and under conditions established by rule adopted by the department *under IC 4-22-2*, thirteen dollars and seventy-five cents (\$13.75).
- (19) A nonresident license to take an extra deer by a means, in a location, and under conditions established by rule adopted by the department *under IC 4-22-2*, *seventy-six dollars and seventy-five cents (\$76.75); one hundred twenty dollars and seventy-five cents (\$120.75).*
- (20) A resident yearly license to take a turkey, fourteen dollars and seventy-five cents (\$14.75).

(21) A nonresident yearly license to take a turkey, ~~seventy-six dollars and seventy-five cents (\$76.75)~~; *one hundred fourteen dollars and seventy-five cents (\$114.75)*. However, if the state of residence of the nonresident applicant requires that before a resident of Indiana may take turkey in that state the resident of Indiana must also purchase another license in addition to a nonresident license to take turkey, the applicant must also purchase a nonresident yearly license to hunt under this section.

(22) A resident youth yearly consolidated license to hunt, six dollars (\$6). This license is subject to the following:

(A) An applicant must be less than eighteen (18) years of age.

(B) The license is in lieu of the resident yearly license to hunt and all other yearly licenses, stamps, or permits to hunt for a specific species or by a specific means.

SECTION 41. IC 15-1.5-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. Before March 1 of each year, the commission shall report to the Indiana state fair advisory ~~commission~~ **committee** established under IC 15-1-1.5-4 the following:

(1) The activities of the commission during the previous calendar year.

(2) The financial condition of the commission for the commission's most recently completed fiscal year.

(3) The commission's plans for the current calendar year.

SECTION 42. IC 15-5-5.5-4, AS AMENDED BY P.L.15-1999, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) The advisory board **shall** elect a chairman, a vice-chairman, a treasurer, and other such officers as are deemed necessary. The chairman of the Indiana horse racing commission shall be secretary and shall be entitled to vote on all matters.

(b) The records of the advisory board shall be kept by the Indiana horse racing commission.

(c) The office of the advisory board shall be located with the offices of the Indiana horse racing commission.

SECTION 43. IC 16-18-2-143 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 143. (a) "Fund", for purposes of IC 16-26-2, has the meaning set forth in IC 16-26-2-2.

(b) "Fund", for purposes of ~~IC 16-45-6~~, **IC 16-46-5**, has the meaning set forth in IC 16-46-5-3.

SECTION 44. IC 16-28-13-0.5, AS ADDED BY P.L.108-1999, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 0.5. As used in this chapter, "health care facility" includes the following:

- (1) An ambulatory outpatient surgical center licensed under IC 16-21-2.
- (2) A health facility licensed under IC 16-28-2 or IC 16-28-3.
- (3) A home health agency licensed under IC 16-27-1.
- (4) A hospice program ~~certified under IC 16-25-1~~. **licensed under IC 16-25-3.**
- (5) A hospital licensed under IC 16-21-2.

SECTION 45. IC 16-28-13-1, AS AMENDED BY P.L.108-1999, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) As used in this chapter, "nurse aide" means an individual who provides nursing or nursing related services to residents in the following:

- (1) A health facility.
- (2) A hospital based health facility.
- (3) An ambulatory outpatient surgical center licensed under IC 16-21-2. Under this subdivision, the term applies to an individual who was employed by the center after July 1, 1999.
- (4) A home health agency licensed under IC 16-27-1. Under this subdivision, the term applies to an individual who was employed by the agency after July 1, 1999.
- (5) A hospice program ~~certified under IC 16-25-1~~. **licensed under IC 16-25-3.** Under this subdivision, the term applies to an individual who was employed by the program after July 1, 1999.
- (6) A hospital licensed under IC 16-21-2. Under this subdivision, the term applies to an individual who was employed by the hospital after July 1, 1999.

(b) The term does not include the following:

- (1) A licensed health professional (as defined in IC 25-1-9-3).
- (2) A registered dietician.
- (3) An individual who volunteers to provide nursing or nursing related services without pay.

SECTION 46. IC 20-1-1-6.3, AS AMENDED BY P.L.221-1999,

SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6.3. (a) As used in this section, "governing body" refers to the governing body of a school corporation.

(b) As used in this section, "plan" refers to a strategic and continuous school improvement and achievement plan developed under IC 20-10.2-3.

(c) A plan must conform to the requirements of IC 20-10.2-3 and include a professional development program that conforms to section 6.5 of this chapter.

(d) The governing body may do the following for a school that participates in a plan:

(1) Invoke a waiver of any rule adopted by the board in accordance with IC 20-10.2-3-4(b).

(2) Develop a plan for the admission of students to the school who do not reside in the school's attendance area but who have legal settlement within the school corporation.

(e) In approving school corporations under this section, the board shall consider whether the governing body has done the following:

(1) Approved a school's plan.

(2) Demonstrated the support of the exclusive representative only for the professional development program component of the plan.

(f) The board may waive any statute or rule relating to curriculum or textbook selection on behalf of a school in accordance with IC 20-10.2-3-4(c).

(g) As part of the plan, the governing body may develop and implement a policy to do the following:

(1) Allow for the transfer of a student who resides in the school's attendance area but whose parent or legal guardian requests that the student attend another school within the school corporation of legal settlement.

(2) Inform parents of their rights under this section.

(h) The board shall adopt rules under IC 4-22-2 to implement this section.

SECTION 47. IC 20-1-1.2-6, AS AMENDED BY P.L.221-1999, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. The superintendent and board shall determine which of the benchmarks and indicators of performance listed in IC 20-1-21-9 are appropriate benchmarks for performance

based accreditation under ~~IC~~ this chapter.

SECTION 48. IC 20-3.1-6-5, AS AMENDED BY P.L.8-1999, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. Each school in the school city shall measure and record:

- (1) the school's achievement in reaching the school's performance objectives established under IC 20-3.1-8;
- (2) student achievement information for the school described in ~~IC~~ IC 20-1-21-9 and IC 20-1-21-9.5; and
- (3) teacher and administrative performance information for the school described in ~~IC~~ IC 20-1-21-9.5.

SECTION 49. IC 20-5-2.5-4, AS ADDED BY P.L.232-1999, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) A self-insurance program must be written on an incurred claims basis.

(b) The governing body must fund a self-insurance program as described in IC 21-2-5.6-1(2) to include coverage for all eligible incurred claims.

(c) Subject to IC 21-2-5.6 and notwithstanding any other law:

- (1) contributions made on behalf of individuals covered under the self-insurance program, including employee and employer contributions; and
- (2) transfers or allocations of funds by a governing body;

for coverage for health care services under a self-insurance program must be directly deposited into the self-insurance fund established under IC 21-2-5.6-1(2) and may not be transferred to other accounts or expended for any other purpose.

~~(d) Interest earned on funds deposited in the self-insurance fund under subsection (c) must be deposited in the self-insurance fund and may not be transferred to other accounts or expended for any other purpose.~~

SECTION 50. IC 20-10.1-26-4, AS AMENDED BY P.L.221-1999, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. A pilot program eligible to be funded under this chapter must include all of the following:

- (1) School based management models.
- (2) Parental involvement strategies.
- (3) Innovative integration of curricula, individualized education

programs, nonstandard courses, or textbook adoption in the school improvement plan described under ~~IC 20-1-1.2-7(7)~~.

(4) Training for participants to become effective members on school/community improvement councils.

SECTION 51. IC 21-3-12-1, AS ADDED BY P.L.273-1999, SECTION 146, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this chapter, "eligible pupil" has the meaning set forth in IC 21-3-1.6-1.1, and the pupil enrollment shall be determined at the same time that a school corporation's ADM is determined under ~~IC 6-1-1-1.6-1.1~~. **IC 21-3-1.6-1.1.**

SECTION 52. IC 23-2-5-3, AS AMENDED BY P.L.230-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) As used in this chapter, "certificate of registration" means a certificate issued by the commissioner authorizing an individual to engage in origination activities on behalf of a licensee.

(b) As used in this chapter, "creditor" means a person:

- (1) that loans funds of the person in connection with a loan; and
- (2) to whom the loan is initially payable on the face of the note or contract evidencing the loan.

(c) As used in this chapter, "license" means a license issued by the commissioner authorizing a person to engage in the loan brokerage business.

(d) As used in this chapter, "licensee" means a person that is issued a license under this chapter.

(e) As used in this chapter, "loan broker" means any person who, in return for any consideration from any person, promises to procure a loan for any person or assist any person in procuring a loan from any third party, or who promises to consider whether or not to make a loan to any person. "Loan broker" does not include:

- (1) any bank, savings bank, trust company, savings association, credit union, or any other financial institution that is:
 - (A) regulated by any agency of the United States or any state; and
 - (B) regularly actively engaged in the business of making consumer loans that are not secured by real estate or taking assignment of consumer sales contracts that are not secured by

real estate; ~~€~~

(2) any person authorized to sell and service loans for the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, issue securities backed by the Government National Mortgage Association, make loans insured by the United States Department of Housing and Urban Development, make loans guaranteed by the United States Department of Veterans Affairs, or act as a correspondent of loans insured by the United States Department of Housing and Urban Development or guaranteed by the United States Department of Veterans Affairs;

(3) any insurance company; or

(4) any person arranging financing for the sale of the person's product.

(f) As used in this chapter, "loan brokerage business" means a person acting as a loan broker.

(g) As used in this chapter, "origination activities" means establishing the terms or conditions of a loan with a borrower or prospective borrower.

(h) As used in this chapter, "person" means an individual, a partnership, a trust, a corporation, a limited liability company, a limited liability partnership, a sole proprietorship, a joint venture, a joint stock company, or another group or entity, however organized.

(i) As used in this chapter, "registrant" means an individual who is registered to engage in origination activities under this chapter.

(j) As used in this chapter, "ultimate equitable owner" means a person who, directly or indirectly, owns or controls any ownership interest in a person, regardless of whether the person owns or controls the ownership interest through one (1) or more other persons or one (1) or more proxies, powers of attorney, or variances.

SECTION 53. IC 23-2-5-10, AS AMENDED BY P.L.230-1999, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) The commissioner may deny, suspend, or revoke the license of a licensee or the registration of a registrant if the licensee or the registrant:

(1) fails to maintain the bond required under section 5 of this chapter;

(2) is insolvent;

(3) has violated any provision of this chapter;

(4) has knowingly filed with the commissioner any document or statement containing any false representation of a material fact or omitting to state a material fact or if a representation becomes false after the filing but during the term of a license or certificate of registration as provided in ~~subsection (d) of this section;~~ **subsection (e);** or

(5) has been convicted, within ten (10) years before the date of the application, renewal, or review, of any crime involving fraud or deceit.

(b) The commissioner may not enter a final order denying, suspending, or revoking the license of a licensee or the registration of a registrant without prior notice to all interested parties, opportunity for a hearing, and written findings of fact and conclusions of law. However, the commissioner may by summary order deny, suspend, or revoke a license or certificate of registration pending final determination of any proceeding under this section. Upon the entry of a summary order, the commissioner shall promptly notify all interested parties that it has been entered, of the reasons for the summary order, and that upon receipt by the commissioner of a written request from a party, the matter will be set for hearing to commence within fifteen (15) business days after receipt of the request. If no hearing is requested and none is ordered by the commissioner, the order remains in effect until it is modified or vacated by the commissioner. If a hearing is requested or ordered, the commissioner, after notice of the hearing has been given to all interested persons and the hearing has been held, may modify or vacate the order or extend it until final determination.

(c) IC 4-21.5 does not apply to a proceeding under this section.

(d) If:

(1) a licensee desires to have a previously unregistered employee begin engaging in origination activities; or

(2) an individual who was previously registered under this chapter is employed by another licensee who desires to have the registrant engage in origination activities;

the employer licensee shall, within fifteen (15) days after the employee first conducts origination activities, submit to the commissioner, on a form prescribed by the commissioner, notice of the registrant's employment. If the employee has not previously been registered, the

licensee shall submit evidence that the employee has completed the education requirements of section 21 of this chapter.

(e) If a material fact or statement included in an application under this chapter changes after the application has been submitted, the applicant shall provide written notice to the commissioner of the change. The commissioner may revoke or refuse to renew the license or registration of any person who:

(1) is required to submit a written notice under this subsection and fails to provide the required notice within two (2) business days after the person discovers or should have discovered the change; or

(2) would not qualify for licensure or registration under this chapter as a result of a change in material fact or statement.

SECTION 54. IC 23-18-6-3.1, AS ADDED BY P.L.269-1999, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3.1. (a) A limited liability company formed under this article after June 30, 1999, is governed by this section.

(b) Except as provided in a written operating agreement:

(1) an interest is assignable in whole or in part;

(2) an assignment entitles the assignee to receive, to the extent assigned, only the distributions to which the assignor would be entitled;

(3) an assignment of an interest does not of itself dissolve the limited liability company or entitle the assignee to participate in the management and affairs of the limited liability company or to become or exercise any rights of a member;

(4) until an assignee of an interest becomes a member, the assignee has no liability as a member solely as a result of the assignment; and

(5) the assignor of an interest is not released from liability as a member solely as a result of the assignment.

~~(b)~~ (c) Unless otherwise provided in an operating agreement, the pledge of or granting of a security interest, lien, or other encumbrance in or against any or all of the interest of a member is not an assignment and does not cause the member to cease to be a member or to cease to have the power to exercise any rights or powers of a member.

SECTION 55. IC 25-1-7-5, AS AMENDED BY P.L.22-1999, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

UPON PASSAGE]: Sec. 5. (a) Subsection (b)(1) does not apply to:

- (1) a complaint filed by:
 - (A) a member of any of the boards listed in section 1 of this chapter; or
 - (B) the health professions bureau; or
 - (2) a complaint filed under IC 25-1-5-4.
- (b) The director has the following duties and powers:
- (1) He shall make an initial determination as to the merit of each complaint. A copy of a complaint having merit shall be submitted to the board having jurisdiction over the licensee's regulated occupation, that board thereby acquiring jurisdiction over the matter except as otherwise provided in this chapter.
 - (2) He shall through any reasonable means notify the licensee of the nature and ramifications of the complaint and of the duty of the board to attempt to resolve the complaint through negotiation.
 - (3) He shall report any pertinent information regarding the status of the complaint to the complainant.
 - (4) He may investigate any written complaint against a licensee. The investigation shall be limited to those areas in which there appears to be a violation of statutes governing the regulated occupation.
 - (5) He has the power to subpoena witnesses **and to** send for and compel the production of books, records, papers, and documents for the furtherance of any investigation under this chapter. The circuit or superior court located in the county where the subpoena is to be issued shall enforce any such subpoena by the director.

SECTION 56. IC 25-2.5-2-4, AS ADDED BY P.L.265-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. The board may refuse to issue a license to an applicant for licensure if:

- (1) the board determines during the application process that the applicant committed an act that would have subjected the applicant to disciplinary sanction under ~~section 1(5)~~ **section 1(4)** of this chapter if the applicant had been licensed in Indiana when the act occurred; or
- (2) the applicant has had a license revoked under IC 25-1-1.1.

SECTION 57. IC 27-1-20-21.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 21.3. (a) Every

domestic casualty insurance company, domestic fire and marine insurance company, and domestic life and health insurance company shall include an actuarial opinion as an additional part of the financial statement required under ~~section 21(a)~~ **section 21** of this chapter. The commissioner shall adopt rules under IC 4-22-2 that:

- (1) prescribe the form and content of the actuarial opinion required by this section; and
- (2) establish minimum qualifications that an actuary must meet in order to provide the actuarial opinion required under this section.

(b) The actuarial opinion required by subsection (a) shall be included with every annual statement beginning with the statement for calendar year 1994.

SECTION 58. IC 27-8-5-19, AS AMENDED BY P.L.207-1999, SECTION 4, AND AS AMENDED BY P.L.233-1999, SECTION 10, IS AMENDED AND CORRECTED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. (a) As used in this chapter, "late enrollee" has the meaning set forth in 26 U.S.C. 9801(b)(3).

(b) A policy of group accident and sickness insurance may not be issued to a group that has a legal situs in Indiana unless it contains in substance:

- (1) the provisions described in subsection (c); or
- (2) provisions that, in the opinion of the commissioner, are:
 - (A) more favorable to the persons insured; or
 - (B) at least as favorable to the persons insured and more favorable to the policyholder;
 than the provisions set forth in subsection (c).

(c) The provisions referred to in subsection (b)(1) are as follows:

- (1) A provision that the policyholder is entitled to a grace period of thirty-one (31) days for the payment of any premium due except the first, during which grace period the policy will continue in force, unless the policyholder has given the insurer written notice of discontinuance in advance of the date of discontinuance and in accordance with the terms of the policy. The policy may provide that the policyholder is liable to the insurer for the payment of a pro rata premium for the time the policy was in force during the grace period. A provision under this subdivision may provide that the insurer is not obligated to pay claims incurred during the grace period until the premium

due is received.

(2) A provision that the validity of the policy may not be contested, except for nonpayment of premiums, after the policy has been in force for two (2) years after its date of issue, and that no statement made by a person covered under the policy relating to the person's insurability may be used in contesting the validity of the insurance with respect to which the statement was made, unless:

(A) the insurance has not been in force for a period of two (2) years or longer during the person's lifetime; or

(B) the statement is contained in a written instrument signed by the insured person.

However, a provision under this subdivision may not preclude the assertion at any time of defenses based upon a person's ineligibility for coverage under the policy or based upon other provisions in the policy.

(3) A provision that a copy of the application, if there is one, of the policyholder must be attached to the policy when issued, that all statements made by the policyholder or by the persons insured are to be deemed representations and not warranties, and that no statement made by any person insured may be used in any contest unless a copy of the instrument containing the statement is or has been furnished to the insured person or, in the event of death or incapacity of the insured person, to the insured person's beneficiary or personal representative.

(4) A provision setting forth the conditions, if any, under which the insurer reserves the right to require a person eligible for insurance to furnish evidence of individual insurability satisfactory to the insurer as a condition to part or all of the person's coverage.

(5) A provision specifying any additional exclusions or limitations applicable under the policy with respect to a disease or physical condition of a person that existed before the effective date of the person's coverage under the policy and that is not otherwise excluded from the person's coverage by name or specific description effective on the date of the person's loss. An exclusion or limitation that must be specified in a provision under this subdivision:

(A) may apply only to a disease or physical condition for which medical advice, diagnosis, care, or treatment was received by the person or recommended to the person during the six (6) months before the enrollment date of the person's coverage; and

(B) may not apply to a loss incurred or disability beginning after the earlier of:

(i) the end of a continuous period of twelve (12) months beginning on or after the enrollment date of the person's coverage; or

(ii) the end of a continuous period of eighteen (18) months beginning on the enrollment date of the person's coverage if the person is a late enrollee.

This subdivision applies only to group policies of accident and sickness insurance other than those described in section 2.5(a)(1) through 2.5(a)(8) of this chapter.

(6) A provision specifying any additional exclusions or limitations applicable under the policy with respect to a disease or physical condition of a person that existed before the effective date of the person's coverage under the policy. An exclusion or limitation that must be specified in a provision under this subdivision:

(A) may apply only to a disease or physical condition for which medical advice or treatment was received by the person during a period of three hundred sixty-five (365) days before the effective date of the person's coverage; and

(B) may not apply to a loss incurred or disability beginning after the earlier of the following:

(i) The end of a continuous period of three hundred sixty-five (365) days, beginning on or after the effective date of the person's coverage, during which the person did not receive medical advice or treatment in connection with the disease or physical condition.

(ii) The end of the two (2) year period beginning on the effective date of the person's coverage.

This subdivision applies only to group policies of accident and sickness insurance described in section 2.5(a)(1) through 2.5(a)(8) of this chapter.

~~(6)~~ (7) If premiums or benefits under the policy vary according to a person's age, a provision specifying an equitable adjustment of:

- (A) premiums;
- (B) benefits; or
- (C) both premiums and benefits;

to be made if the age of a covered person has been misstated. A provision under this subdivision must contain a clear statement of the method of adjustment to be used.

~~(7)~~ (8) A provision that the insurer will issue to the policyholder, for delivery to each person insured, a certificate setting forth a statement that:

- (A) explains the insurance protection to which the person insured is entitled;
- (B) indicates to whom the insurance benefits are payable; and
- (C) explains any family member's or dependent's coverage under the policy.

~~(8)~~ (9) A provision stating that written notice of a claim must be given to the insurer within twenty (20) days after the occurrence or commencement of any loss covered by the policy, but that a failure to give notice within the twenty (20) day period does not invalidate or reduce any claim if it can be shown that it was not reasonably possible to give notice within that period and that notice was given as soon as was reasonably possible.

~~(9)~~ (10) A provision stating that:

- (A) the insurer will furnish to the person making a claim, or to the policyholder for delivery to the person making a claim, forms usually furnished by the insurer for filing proof of loss; and
- (B) if the forms are not furnished within fifteen (15) days after the insurer received notice of a claim, the person making the claim will be deemed to have complied with the requirements of the policy as to proof of loss upon submitting, within the time fixed in the policy for filing proof of loss, written proof covering the occurrence, character, and extent of the loss for which the claim is made.

~~(10)~~ (11) A provision stating that:

- (A) in the case of a claim for loss of time for disability, written proof of the loss must be furnished to the insurer within ninety

(90) days after the commencement of the period for which the insurer is liable, and that subsequent written proofs of the continuance of the disability must be furnished to the insurer at reasonable intervals as may be required by the insurer;

(B) in the case of a claim for any other loss, written proof of the loss must be furnished to the insurer within ninety (90) days after the date of the loss; and

(C) the failure to furnish proof within the time required under clause (A) or (B) does not invalidate or reduce any claim if it was not reasonably possible to furnish proof within that time, and if proof is furnished as soon as reasonably possible but (except in case of the absence of legal capacity of the claimant) no later than one (1) year from the time proof is otherwise required under the policy.

~~(11)~~ (12) A provision that:

(A) all benefits payable under the policy (other than benefits for loss of time) will be paid within forty-five (45) days after the insurer receives all information required to determine liability under the terms of the policy; and

(B) subject to due proof of loss, all accrued benefits under the policy for loss of time will be paid not less frequently than monthly during the continuance of the period for which the insurer is liable, and any balance remaining unpaid at the termination of the period for which the insurer is liable will be paid as soon as possible after receipt of the proof of loss.

~~(12)~~ (13) A provision that benefits for loss of life of the person insured are payable to the beneficiary designated by the person insured. However, if the policy contains conditions pertaining to family status, the beneficiary may be the family member specified by the policy terms. In either case, payment of benefits for loss of life is subject to the provisions of the policy if no designated or specified beneficiary is living at the death of the person insured. All other benefits of the policy are payable to the person insured. The policy may also provide that if any benefit is payable to the estate of a person or to a person who is a minor or otherwise not competent to give a valid release, the insurer may pay the benefit, up to an amount of five thousand dollars (\$5,000), to any relative by blood or connection by marriage of the person who is deemed

by the insurer to be equitably entitled to the benefit.

~~(13)~~ (14) A provision that the insurer has the right and must be allowed the opportunity to:

(A) examine the person of the individual for whom a claim is made under the policy when and as often as the insurer reasonably requires during the pendency of the claim; and

(B) conduct an autopsy in case of death if it is not prohibited by law.

~~(14)~~ (15) A provision that no action at law or in equity may be brought to recover on the policy less than sixty (60) days after proof of loss is filed in accordance with the requirements of the policy and that no action may be brought at all more than three (3) years after the expiration of the time within which proof of loss is required by the policy.

~~(15)~~ (16) In the case of a policy insuring debtors, a provision that the insurer will furnish to the policyholder, for delivery to each debtor insured under the policy, a certificate of insurance describing the coverage and specifying that the benefits payable will first be applied to reduce or extinguish the indebtedness.

~~(16)~~ (17) If the policy provides that hospital or medical expense coverage of a dependent child of a group member terminates upon the child's attainment of the limiting age for dependent children set forth in the policy, a provision that the child's attainment of the limiting age does not terminate the hospital and medical coverage of the child while the child is:

(A) incapable of self-sustaining employment because of mental retardation or mental or physical disability; and

(B) chiefly dependent upon the group member for support and maintenance.

A provision under this subdivision may require that proof of the child's incapacity and dependency be furnished to the insurer by the group member within one hundred twenty (120) days of the child's attainment of the limiting age and, subsequently, at reasonable intervals during the two (2) years following the child's attainment of the limiting age. The policy may not require proof more than once per year in the time more than two (2) years after the child's attainment of the limiting age. This subdivision does not require an insurer to provide coverage to a mentally retarded

or mentally or physically disabled child who does not satisfy the requirements of the group policy as to evidence of insurability or other requirements for coverage under the policy to take effect. In any case, the terms of the policy apply with regard to the coverage or exclusion from coverage of the child.

~~(17)~~ (18) A provision that complies with the group portability and guaranteed renewability provisions of the federal Health Insurance Portability and Accountability Act of 1996 (P.L.104-191).

(d) Subsection (c)(5), ~~(c)(7)~~, (c)(8), and ~~(c)(12)~~ (c)(13) do not apply to policies insuring the lives of debtors. The standard provisions required under section 3(a) of this chapter for individual accident and sickness insurance policies do not apply to group accident and sickness insurance policies.

(e) If any policy provision required under subsection (c) is in whole or in part inapplicable to or inconsistent with the coverage provided by an insurer under a particular form of policy, the insurer, with the approval of the commissioner, shall delete the provision from the policy or modify the provision in such a manner as to make it consistent with the coverage provided by the policy.

SECTION 59. IC 27-13-8-2, AS AMENDED BY P.L.133-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) In addition to the report required by section 1 of this chapter, a health maintenance organization shall each year file with the commissioner the following:

- (1) Audited financial statements of the health maintenance organization for the preceding calendar year.
- (2) A list of participating providers who provide health care services to enrollees or subscribers of the health maintenance organization.
- (3) A description of the grievance procedure of the health maintenance organization:
 - (A) established under IC 27-13-10, including:
 - (i) the total number of grievances handled through the procedure during the preceding calendar year;
 - (ii) a compilation of the causes underlying those grievances; and
 - (iii) a summary of the final disposition of those grievances;

and

(B) established under IC 27-13-10.1, including:

- (i) the total number of external grievances handled through the procedure during the preceding calendar year;
- (ii) a compilation of the causes underlying those grievances; and
- (iii) a summary of the final disposition of those grievances; for each independent review organization used by the health maintenance organization during the reporting year.

(b) The information required by subsection (a)(2) and (a)(3) must be filed with the commissioner on or before March 1 of each year. The audited financial statements required by subsection (a)(1) must be filed with the commissioner on or before June 1 of each year. The commissioner shall:

- (1) make the information required to be filed under this section available to the public; and
- (2) prepare an annual compilation of the data required under subsection (a)(3) that allows for comparative analysis.

(c) The commissioner may require any additional reports as are necessary and appropriate for the commissioner to carry out the commissioner's duties under this article.

SECTION 60. IC 27-13-10.1-8, AS ADDED BY P.L.133-1999, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) The department shall establish and maintain a process for annual certification of independent review organizations.

(b) The department shall certify a number of independent review organizations determined by the department to be sufficient to fulfill the purposes of this chapter.

(c) An independent review organization shall meet the following minimum requirements for certification by the department:

- (1) Medical review professionals assigned by the independent review organization to perform external grievance reviews under this chapter:
 - (A) must be board certified in the specialty in which an enrollee's proposed service would be provided;
 - (B) must be knowledgeable about a proposed service through actual clinical experience;

(C) must hold an unlimited license to practice in a state of the United States; and

(D) must have no history of disciplinary actions or sanctions including:

- (i) loss of staff privileges; or
- (ii) restriction on participation;

taken or pending by any hospital, government, or regulatory body.

(2) The independent review organization must have a quality assurance mechanism to ensure the:

- (A) timeliness and quality of reviews;
- (B) qualifications and independence of medical review professionals;
- (C) confidentiality of medical records and other review materials; and
- (D) satisfaction of enrollees with the procedures utilized by the independent review organization, including the use of enrollee satisfaction surveys.

(3) The independent review organization must file with the department the following information before March 1 of each year:

- (A) The number and percentage of determinations made in favor of enrollees.
- (B) The number and percentage of determinations made in favor of health maintenance organizations.
- (C) The average time to process a determination.
- (D) Any other information required by the department.

The information required under this subdivision must be specified for each health maintenance organization for which the independent review organization performed reviews during the reporting year.

(4) Any additional requirements established by the department.

(d) The department may not certify an independent review organization that is one (1) of the following:

- (1) A professional or trade association of health care providers or a subsidiary or an affiliate of a professional or trade association of health care providers.
- (2) A health insurer, health maintenance organization, or health

plan association or a subsidiary or an affiliate of a health insurer, health maintenance organization, or health plan association.

(e) The department may suspend or revoke an independent review organization's certification if the department finds that the independent review organization is not in substantial compliance with the certification requirements under this section.

(f) The department shall make available to health maintenance organizations a list of all certified independent review organizations.

(g) The department shall make the information provided to the department under ~~subdivision~~ **subsection** (c)(3) available to the public in a format that does not identify individual enrollees.

SECTION 61. IC 27-15-1-2, AS ADDED BY P.L.94-1999, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) Any domestic mutual insurance company that:

- (1) maintains its executive offices in Indiana; and
- (2) employs at least five hundred (500) persons or a substantial percentage of its workforce in Indiana;

may, by amendment to its articles of incorporation, convert to a stock insurance company by means of a plan of conversion described in IC 27-15-2-2 or a simple plan of conversion described in IC 27-15-2-3 ~~under this article~~ and IC 27-1-8.

(b) The commissioner shall determine whether a mutual insurance company meets the requirements of subsection (a)(2).

SECTION 62. IC 30-2-13-1, AS AMENDED BY P.L.114-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) Except as provided in subsection (b), this chapter applies to any written agreement between a purchaser and a seller that obligates the seller to provide prepaid services or merchandise, or both, for a named individual in conjunction with the death, funeral, burial, or final disposition of the individual.

(b) Except as provided in subsections (c) and (d), this chapter does not apply to the following:

- (1) Perpetual care funds under ~~IC 23-14-1~~ **IC 23-14-48**.
- (2) The sale of burial rights. However, this chapter applies to the sale of services or merchandise sold in conjunction with the sale of burial rights and to the use of free or discounted burial rights as an inducement for a purchaser to transfer sellers.

(3) A contract between a purchaser and a seller that requires delivery of prepaid services or merchandise, or both, not later than one (1) year after the date of final payment and for circumstances other than death.

(c) The annual reporting requirements of section 31 of this chapter apply to a perpetual care fund.

(d) The solicitation requirements of section 24 of this chapter and the provisions concerning inducement in section 13(h) of this chapter apply to the sale of burial rights.

SECTION 63. IC 31-9-2-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 28. "Court appointed special advocate", for purposes of IC 31-15-6, ~~IC 31-16-3~~, IC 31-17-6, IC 31-19-16, IC 31-19-16.5, and the juvenile law, means a community volunteer who:

- (1) has completed a training program approved by the court;
- (2) has been appointed by a court to represent and protect the best interests of a child; and
- (3) may research, examine, advocate, facilitate, and monitor a child's situation.

SECTION 64. IC 31-34-21-7, AS AMENDED BY P.L.1-1999, SECTION 63, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) The court shall hold a permanency hearing:

- (1) not more than thirty (30) days after a court finds that reasonable efforts to reunify or preserve a child's family are not required as described in section 5.6 of this chapter;
- (2) every twelve (12) months after:
 - (A) the date of the original dispositional decree; or
 - (B) a child in need of services was removed from the child's parent, guardian, or custodian;
 whichever comes first; or
- (3) more often if ordered by the juvenile court.

(b) The court shall:

- (1) make the determination and findings required by section 5 of this chapter;
- (2) consider the question of continued jurisdiction and whether the dispositional decree should be modified;
- (3) consider recommendations of persons listed under section 4

of this chapter, before approving a permanency plan under subdivision (4);

(4) consider and approve a permanency plan for the child that complies with the requirements set forth in section 7.5 of this chapter;

(5) determine whether an existing permanency plan must be modified; and

(6) examine procedural safeguards used by the county office of family and children to protect parental rights.

(c) There is a rebuttable presumption that jurisdiction over the child in a child in need of services proceeding continues for not longer than twelve (12) months after the date of the original dispositional decree or twelve (12) months after the child in need of services was removed from the child's parent, guardian, or custodian, whichever occurs first. The state may rebut the presumption and show that jurisdiction should continue by proving that the objectives of the dispositional decree have not been accomplished, that a continuation of the decree with or without any modifications is necessary, and that it is in the child's best interests for the court to maintain its jurisdiction over the child. If the county office of family and children does not sustain its burden for continued jurisdiction, the court shall:

(1) direct the county office of family and children to establish a permanency plan within thirty (30) days; ~~or~~; or

(2) discharge the child and the child's parent, guardian, or custodian.

The court may retain jurisdiction to the extent necessary to carry out any orders under subdivision (1).

SECTION 65. IC 32-7-9-7, AS ADDED BY P.L.180-1999, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) For purposes of this section, "waste" does not include failure to pay rent.

(b) At the emergency hearing, if the court finds:

(1) probable cause to believe that the tenant has committed or threatens to commit waste to the rental unit; and

(2) that the landlord has suffered or will suffer immediate and serious injury, loss, or damage;

the court shall issue an order under subsection (c).

(c) If the court makes a finding under ~~subsection (a)~~; **subsection (b)**,

the court shall order the tenant to do either or both of the following:

- (1) Return possession of the dwelling unit to the landlord.
- (2) Refrain from committing waste to the dwelling unit.

(d) The court may make other orders that the court considers just under the circumstances, including setting a subsequent hearing at the request of a party to adjudicate related claims between the parties.

SECTION 66. IC 32-7-9-9, AS ADDED BY P.L.180-1999, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. If the court sets a subsequent hearing under section 6(c) or ~~7(c)~~ 7(d) of this chapter, the court may do the following at the subsequent hearing:

- (1) Determine damages.
- (2) Order return of a tenant's withheld property.
- (3) Make other orders the court considers just under the circumstances.

SECTION 67. IC 32-7-9-10, AS ADDED BY P.L.180-1999, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. The adjudication of an emergency possessory claim under section 6(b) or ~~7(b)~~ 7(c) of this chapter does not bar a subsequent claim a party may have against the other party arising out of the landlord and tenant relationship unless that claim has been adjudicated under section 9 of this chapter.

SECTION 68. IC 33-2.1-8-1, AS AMENDED BY P.L.176-1999, SECTION 126, AND AS AMENDED BY P.L.271-1999, SECTION 3, IS AMENDED AND CORRECTED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) As used in this chapter, "cause" means a trial, hearing, arraignment, controversy, appeal, case, or any business performed within the official duty of a justice, judge, or prosecuting attorney.

(b) As used in this chapter, "compensation" means any money, thing of value, or economic benefit conferred on or received by any person in return for services rendered or for services to be rendered, whether by that person or another.

(c) As used in this chapter, "economic interest" means substantial financial interest in investments, employment, awarding of contracts, purchases, leases, sales, or similar matters.

(d) As used in this chapter, "employer" means any person from whom the judge, justice, or prosecuting attorney or that person's spouse

receives any nonstate income.

(e) As used in this chapter, "information of a confidential nature" means information obtained by reason of the position or office held and which information has not been or will not be communicated to the general public.

(f) As used in this chapter, "person" means any individual, proprietorship, partnership, unincorporated association, trust, business trust, group, limited liability company, or corporation, whether or not operated for profit, or a governmental agency or political subdivision.

(g) As used in this chapter, "judge" means a judge of the court of appeals or the tax court, or of a circuit, superior, ~~municipal~~, county, *small claims* or probate court. A judge pro tempore, commissioner, or hearing officer shall be considered a judge if that person shall sit more than twenty (20) days other than Saturdays, Sundays, or holidays in one (1) calendar year as judge, commissioner, or hearing officer in any court.

(h) *As used in this chapter, "close relative" means a person related to a person filing a statement of economic interest or to the person's spouse as a son, daughter, grandson, granddaughter, great-grandson, great-granddaughter, father, mother, grandfather, grandmother, great-grandfather, great-grandmother, brother, sister, nephew, niece, uncle, or aunt. Relatives by adoption, half-blood, marriage, or remarriage shall be treated as relatives of whole kinship.*

SECTION 69. IC 34-11-2-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. An action upon contracts in writing other than those for the payment of money, and including all mortgages other than chattel mortgages, deeds of trust, judgments of courts of record, and for the recovery of the possession of real estate, must be commenced within ten (10) years after the cause of action accrues. However, an action upon contracts in writing other than those for the payment of money entered into before September 1, 1982, not including chattel mortgages, deeds of trust, judgments of courts of record, or for the recovery of the possession of real estate, ~~the action~~ must be commenced within twenty (20) years after the cause of action accrues.

SECTION 70. IC 34-26-2-12, AS AMENDED BY P.L.188-1999, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. A court shall set a date for a hearing

concerning a petition described in section 2 of this chapter not more than thirty (30) days after the date the petition is filed with the court. At the hearing, if at least one (1) of the allegations described in the petition is proved by a preponderance of the evidence, the court:

(1) shall order the respondent:

(A) to refrain from abusing, harassing, or disturbing the peace of the petitioner, by either direct or indirect contact;

(B) to refrain from abusing, harassing, or disturbing the peace of a member of the petitioner's household, by either direct or indirect contact;

(C) to refrain from entering the property of the petitioner, jointly owned or leased property of the petitioner and the respondent if the respondent is not the sole owner or lessee, or any other property as specifically described in the petition;

(D) to refrain from damaging any property of the petitioner; and

(E) if the petitioner and respondent are married and if a proceeding for dissolution of marriage or legal separation is not pending:

(i) to be evicted from the dwelling of the petitioner if the respondent is not the sole owner or lessee of the petitioner's dwelling;

(ii) to not transfer, encumber, damage, conceal, or otherwise dispose of property jointly owned with the petitioner or that is an asset of the marriage;

(iii) to pay child support to the custodian of any minor children of the parties alone or with the other party;

(iv) to pay maintenance to the other party; or

(v) to perform a combination of the acts described in items (i) through (iv); ~~and~~

(2) may order the respondent to refrain from possessing a firearm (as defined in IC 35-47-1-5) during a period not longer than the period that the respondent is under the protective order if the court finds by clear and convincing evidence that the respondent poses a significant threat of inflicting serious bodily injury to the petitioner or a member of the petitioner's household or family; **and**

(3) may order counseling or other social services, including

domestic violence education, for the petitioner **or** the respondent, or both, and may order the respondent to pay the costs of obtaining counseling or other social services for the petitioner **or** the respondent, or both.

If the court prohibits the respondent from possessing a firearm under subdivision (2), the court shall notify the state police department of the restriction. The court may also order the confiscation under IC 35-47-3 of any firearms that the court finds the respondent to possess during the period that the protective order is in effect.

SECTION 71. IC 35-40-6-7, AS ADDED BY P.L.139-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. If the defendant is convicted, and upon the victim's request, the victim shall be notified, if applicable, of the following:

- (1) The function of the presentence report.
- (2) The name and telephone number of the probation department that is preparing the presentence report.
- (3) The right to make a victim impact statement under IC 35-38-1-8.5.
- (4) The defendant's right to review the presentence report.
- (5) The victim's right to review the presentence report, except those parts excised by the court or made confidential by ~~IC 35-40-5-7~~. **IC 35-40-5-6.**
- (6) The victim's right to be present and heard at any sentencing procedure under ~~IC 35-40-5-6~~. **IC 35-40-5-5.**
- (7) The time, place, and date of the sentencing proceeding.

SECTION 72. IC 35-46-1-10.2, AS ADDED BY P.L.177-1999, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10.2. (a) A retail establishment that sells or distributes tobacco to a person less than eighteen (18) years of age commits a Class C infraction. For a sale to take place under this section, the buyer must pay the retail establishment for the tobacco product. Notwithstanding IC 34-28-5-4(c), a civil judgment for an infraction committed under this section must be imposed as follows:

- (1) If the retail establishment at that specific business location has not been issued a citation or summons for a violation of this section in the previous ninety (90) days, a civil penalty of fifty dollars (\$50).

(2) If the retail establishment at that specific business location has had one (1) citation or summons issued for a violation of this section in the previous ninety (90) days, a civil penalty of one hundred dollars (\$100).

(3) If the retail establishment at that specific business location has had two (2) citations or ~~summons~~ **summonses** issued for a violation of this section in the previous ninety (90) days, a civil penalty of two hundred fifty dollars (\$250).

(4) If the retail establishment at that specific business location has had three (3) or more citations or summonses issued for a violation of this section in the previous ninety (90) days, a civil penalty of five hundred dollars (\$500).

A retail establishment may not be issued a citation or ~~summonses~~ **summons** for a violation of this section more than once every twenty-four (24) hours for each specific business location.

(b) It is not a defense that the person to whom the tobacco was sold or distributed did not smoke, chew, or otherwise consume the tobacco.

(c) The following defenses are available to a retail establishment accused of selling or distributing tobacco to a person who is less than eighteen (18) years of age:

(1) The buyer or recipient produced a driver's license bearing the purchaser's or recipient's photograph showing that the purchaser or recipient was of legal age to make the purchase.

(2) The buyer or recipient produced a photographic identification card issued under IC 9-24-16-1 or a similar card issued under the laws of another state or the federal government showing that the purchaser or recipient was of legal age to make the purchase.

(3) The appearance of the purchaser or recipient was such that an ordinary prudent person would believe that the purchaser or recipient was not less than the age that complies with regulations promulgated by the federal Food and Drug Administration.

(d) It is a defense that the accused retail establishment sold or delivered the tobacco to a person who acted in the ordinary course of employment or a business concerning tobacco:

- (1) agriculture;
- (2) processing;
- (3) transporting;
- (4) wholesaling; or

(5) retailing.

(e) As used in this section, "distribute" means to give tobacco to another person as a means of promoting, advertising, or marketing the tobacco to the general public.

(f) Unless a person buys or receives tobacco under the direction of a law enforcement officer as part of an enforcement action, a retail establishment that sells or distributes tobacco is not liable for a violation of this section unless the person less than eighteen (18) years of age who bought or received the tobacco is issued a citation or summons under section 10.5 of this chapter.

(g) Notwithstanding IC 34-28-5-4(c), civil penalties collected under this section must be deposited in the youth tobacco education and enforcement fund (IC 7.1-6-2-6).

SECTION 73. IC 35-46-1-11.5, AS AMENDED BY P.L.177-1999, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11.5. (a) Except for a coin machine that is placed in or directly adjacent to an entranceway or an exit, or placed in a hallway, a restroom, or another common area that is accessible to persons who are less than eighteen (18) years of age, this section does not apply to a coin machine that is located in the following:

- (1) That part of a licensed premises (as defined in IC 7.1-1-3-20) where entry is limited to persons who are at least eighteen (18) years of age.
- (2) Private industrial or office locations that are customarily accessible only to persons who are at least eighteen (18) years of age.
- (3) Private clubs if the membership is limited to persons who are at least eighteen (18) years of age.
- (4) Riverboats where entry is limited to persons who are at least twenty-one (21) years of age and on which lawful gambling is authorized.

(b) As used in this section, "coin machine" has the meaning set forth in IC 35-43-5-1.

(c) Except as provided in subsection (a), an owner of a retail establishment may not:

- (1) distribute or sell tobacco by use of a coin machine; or
- (2) install or maintain a coin machine that is intended to be used for the sale or distribution of tobacco.

(d) An owner of a retail establishment who violates this section commits a Class C infraction. A citation or summons issued under this section must provide notice that the coin machine must be moved within two (2) business days. Notwithstanding IC 34-28-5-4(c), a civil judgment for an infraction committed under this section must be imposed as follows:

- (1) If the owner of the retail establishment has not been issued a citation or summons for a violation of this section in the previous ninety (90) days, a civil penalty of fifty dollars (\$50).
- (2) If the owner of the retail establishment has had one (1) citation or summons issued for a violation of this section in the previous ninety (90) days, a civil penalty of two hundred fifty dollars (\$250).
- (3) If the owner of the retail establishment has had two (2) citations or summonses issued for a violation of this section in the previous ninety (90) days for the same machine, the coin machine shall be removed or impounded by a law enforcement officer having jurisdiction where the violation occurs.

An owner of a retail establishment may not be issued a citation or summons for a violation of this section more than once every two (2) business days for each business location.

(e) Notwithstanding IC 34-28-5-4(c), civil penalties collected under this section must be deposited in the youth tobacco education and enforcement fund **established under IC 7.1-6-2-6**.

SECTION 74. IC 35-46-1-11.7, AS ADDED BY P.L.177-1999, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11.7. (a) A retail establishment that has as its primary purpose the sale of tobacco products may not allow an individual who is less than eighteen (18) years of age to enter the retail establishment.

(b) An individual who is less than eighteen (18) years of age may not enter a retail establishment described in subsection (a).

(c) A retail establishment described in subsection (a) must conspicuously post on all entrances to the retail establishment a sign in boldface type that states "NOTICE: It is unlawful for a person less than 18 years old to enter this store."

(d) A person who violates this section commits a Class C infraction. Notwithstanding IC 34-28-5-4(c), a civil judgment for an infraction

committed under this section must be imposed as follows:

- (1) If the person has not been cited for a violation of this section in the previous ninety (90) days, a civil penalty of fifty dollars (\$50).
- (2) If the person has had one (1) violation in the previous ninety (90) days, a civil penalty of one hundred dollars (\$100).
- (3) If the person has had two (2) violations in the previous ninety (90) days, a civil penalty of two hundred fifty dollars (\$250).
- (4) If the person has had three (3) or more violations in the previous ninety (90) days, a civil penalty of five hundred dollars (\$500).

A person may not be cited more than once every twenty-four (24) hours.

(e) Notwithstanding IC 34-28-5-4(c), civil penalties collected under this section must be deposited in the youth tobacco education and enforcement fund **established under IC 7.1-6-2-6**.

SECTION 75. IC 35-46-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) This section does not apply to a violation of section 1 of this chapter.

(b) Any law enforcement officer or any other person having authority to impound animals who has probable cause to believe there has been a violation of this chapter or IC 15-5-12-3 may take custody of the animal involved.

(c) The animal shall be properly cared for pending disposition of charges under this chapter or IC 15-5-12.

(d) If the owner requests, the court having jurisdiction of criminal charges filed under this chapter or IC 15-5-12 shall hold a hearing to determine whether probable cause exists to believe that a violation of this chapter or IC 15-5-12 has occurred. If the court determines that probable cause does not exist, the court shall order the animal returned to its owner.

(e) This subsection applies only to livestock animals. Whenever charges are filed under this chapter, the court shall appoint the state veterinarian under IC 15-2.1-2-50 or the state veterinarian's designee to:

- (1) investigate the condition of the animal and the circumstances relating to the animal's condition; and
- (2) make a recommendation to the court under subsection (f)

regarding the confiscation of the animal.

(f) The state veterinarian or the state veterinarian's designee who is appointed under subsection (e) shall do the following:

(1) Make a recommendation to the court concerning whether confiscation is necessary to protect the safety and well-being of the animal.

(2) If confiscation is recommended under subdivision (1), recommend a manner for handling the confiscation and disposition of the animal that is in the best interests of the animal.

The state veterinarian or the state veterinarian's designee who submits a recommendation under this subsection shall articulate to the court the reasons supporting the recommendation.

(g) The court:

(1) shall give substantial weight to; and

(2) may enter an order based upon;

a recommendation submitted under subsection (f).

(h) If a person is convicted of an offense under this chapter or IC 15-5-12, the court may impose the following additional penalties against the person:

(1) A requirement that the person pay the costs of caring for an animal involved in the offenses that are incurred during a period of impoundment authorized under subsection (b).

(2) An order terminating the person's right to possession, title, custody, or care of an animal that was involved in the offense.

(i) If a person's right to possession, title, custody, or care of an animal is terminated under ~~subsection (b)~~, **subsection (h)**, the court may:

(1) award the animal to a humane society or other organization that has as its principal purpose the humane treatment of animals; or

(2) order the disposition of the animal as recommended under subsection (f).

SECTION 76. IC 35-47-4-5, AS ADDED BY P.L.247-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) As used in this section, "serious violent felon" means a person who has been convicted of:

(1) committing a serious violent felony in:

(A) Indiana; or

- (B) any other jurisdiction in which the elements of the crime for which the conviction was entered are substantially similar to the elements of a serious violent felony; or
- (2) attempting to commit or conspiring to commit a serious violent felony in:
 - (A) Indiana as provided under IC 35-41-5-1 or ~~IC 35-45-5-2~~; **IC 35-41-5-2**; or
 - (B) any other jurisdiction in which the elements of the crime for which the conviction was entered are substantially similar to the elements of attempting to commit or conspiring to commit a serious violent felony.
- (b) As used in this section, "serious violent felony" means:
 - (1) murder (IC 35-42-1-1);
 - (2) voluntary manslaughter (IC 35-42-1-3);
 - (3) reckless homicide not committed by means of a vehicle (IC 35-42-1-5);
 - (4) battery as a Class B felony (IC 35-42-2-1(a)(4)) or Class C felony (IC 35-42-2-1(a)(3));
 - (5) aggravated battery (IC 35-42-2-1.5);
 - (6) kidnapping (IC 35-42-3-2);
 - (7) criminal confinement (IC 35-42-3-3);
 - (8) rape (IC 35-42-4-1);
 - (9) criminal deviate conduct (IC 35-42-4-2);
 - (10) child molesting (IC 35-42-4-3);
 - (11) sexual battery as a Class C felony (IC 35-42-4-8);
 - (12) robbery (IC 35-42-5-1);
 - (13) carjacking (IC 35-42-5-2);
 - (14) arson as a Class A felony or Class B felony (IC 35-43-1-1(a));
 - (15) burglary as a Class A felony or Class B felony (IC 35-43-2-1);
 - (16) assisting a criminal as a Class C felony (IC 35-44-3-2);
 - (17) resisting law enforcement as a Class B felony or Class C felony (IC 35-44-3-3);
 - (18) escape as a Class B felony or Class C felony (IC 35-44-3-5);
 - (19) trafficking with an inmate as a Class C felony (IC 35-44-3-9);
 - (20) criminal gang intimidation (IC 35-45-9-4);

- (21) stalking as a Class B felony or Class C felony (IC 35-45-10-5);
- (22) incest (IC 35-46-1-3);
- (23) dealing in cocaine or a narcotic drug (IC 35-48-4-1);
- (24) dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2);
- (25) dealing in a schedule IV controlled substance (IC 35-48-4-3);
- or
- (26) dealing in a schedule V controlled substance (IC 35-48-4-4).

(c) A serious violent felon who knowingly or intentionally possesses a firearm commits unlawful possession of a firearm by a serious violent felon, a Class B felony.

SECTION 77. IC 35-48-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) The board shall administer this article and may recommend to the general assembly the addition, deletion, or rescheduling of all substances listed in the schedules in sections 4, 6, 8, 10, and 12 of this chapter by submitting a report of such recommendations to the legislative council. In making a determination regarding a substance, the board shall consider the following:

- (1) The actual or relative potential for abuse.
- (2) The scientific evidence of its pharmacological effect, if known.
- (3) The state of current scientific knowledge regarding the substance.
- (4) The history and current pattern of abuse.
- (5) The scope, duration, and significance of abuse.
- (6) The risk to public health.
- (7) The potential of the substance to produce psychic or physiological dependence liability.
- (8) Whether the substance is an immediate precursor of a substance already controlled under this article.

(b) After considering the factors enumerated in subsection (a), the board shall make findings and recommendations concerning the control of the substance if it finds the substance has a potential for abuse.

(c) If the board finds that a substance is an immediate precursor, substances which are precursors of the controlled precursor shall not be subject to control solely because they are precursors of the

controlled precursor.

(d) If any substance is designated or rescheduled to a more restrictive schedule as a controlled substance under federal law and notice is given to the board, the board shall recommend similar control of the substance under this article in the board's report to the general assembly, unless the board objects to inclusion or rescheduling. In that case, the board shall publish the reasons for objection and afford all interested parties an opportunity to be heard. At the conclusion of the hearing, the board shall publish its findings.

(e) If a substance is rescheduled to a less restrictive schedule or deleted as a controlled substance under federal law, the substance is rescheduled or deleted under this article. If the board objects to inclusion, rescheduling, or deletion of the substance, the board shall notify the chairman of the legislative council not more than thirty (30) days after the federal law is changed and the substance may not be rescheduled or deleted until the conclusion of the next complete session of the general assembly. The notice from the board to the chairman of the legislative council must be published.

(f) There is established a fifteen (15) member controlled substances advisory committee to serve as a consultative and advising body to the board in all matters relating to the classification, reclassification, addition to, or deletion from of all substances classified as controlled substances in schedules I to IV or substances not controlled or yet to come into being. In addition, the advisory committee shall conduct hearings and make recommendations to the board regarding revocations, suspensions, and restrictions of registrations as provided in IC 35-48-3-4. All hearings shall be conducted in accordance with IC 4-21.5-3. The advisory committee shall be made up of:

- (1) two (2) physicians licensed under IC 25-22.5, one (1) to be elected by the medical licensing board of Indiana from among its members and one (1) to be appointed by the governor;
- (2) two (2) pharmacists, one (1) to be elected by the state board of pharmacy from among its members and one (1) to be appointed by the governor;
- (3) two (2) dentists, one (1) to be elected by the state board of ~~dental examiners~~ **dentistry** from among its members and one (1) to be appointed by the governor;
- (4) the state toxicologist or the designee of the state toxicologist;

- (5) two (2) veterinarians, one (1) to be elected by the state board of veterinary medical examiners from among its members and one (1) to be appointed by the governor;
- (6) one (1) podiatrist to be elected by the board of podiatric medicine from among its members;
- (7) one (1) advanced practice nurse with authority to prescribe legend drugs as provided by IC 25-23-1-19.5 who is:
 - (A) elected by the state board of nursing from among the board's members; or
 - (B) if a board member does not meet the requirements under IC 25-23-1-19.5 at the time of the vacancy on the advisory committee, appointed by the governor;
- (8) the superintendent of the state police department or the superintendent's designee; and
- (9) three (3) members appointed by the governor who have demonstrated expertise concerning controlled substances.

(g) All members of the advisory committee elected by a board shall serve a term of one (1) year and all members of the advisory committee appointed by the governor shall serve a term of four (4) years. Any elected or appointed member of the advisory committee, may be removed for cause by the authority electing or appointing the member. If a vacancy occurs on the advisory committee, the authority electing or appointing the vacating member shall elect or appoint a successor to serve the unexpired term of the vacating member. The board shall acquire the recommendations of the advisory committee pursuant to administration over the controlled substances to be or not to be included in schedules I to V, especially in the implementation of scheduled substances changes as provided in subsection (d).

(h) Authority to control under this section does not extend to distilled spirits, wine, or malt beverages, as those terms are defined or used in IC 7.1, or to tobacco.

(i) The board shall exclude any nonnarcotic substance from a schedule if that substance may, under the Federal Food, Drug, and Cosmetic Act or state law, be sold over the counter without a prescription.

SECTION 78. IC 35-50-6-3.3, AS AMENDED BY P.L.183-1999, SECTION 3, AND AS AMENDED BY P.L.243-1999, SECTION 3, IS AMENDED AND CORRECTED TO READ AS FOLLOWS

[EFFECTIVE UPON PASSAGE]: Sec. 3.3. (a) In addition to any credit time a person earns under subsection (b) or section 3 of this chapter, ~~if~~ a person earns credit time if the person:

- (1) is in credit Class I;
- (2) has demonstrated a pattern consistent with rehabilitation; and
- (3) successfully completes requirements to obtain one (1) of the following:

(A) A general educational development (GED) diploma under IC 20-10.1-12.1, if the person has not previously obtained a high school diploma.

(B) A high school diploma.

(C) An associate's degree from an approved institution of higher learning (as defined under IC 20-12-21-3).

(D) A bachelor's degree from an approved institution of higher learning (as defined under IC 20-12-21-3).

(b) In addition to any credit time that a person earns under subsection (a) or section 3 of this chapter, a person may earn credit time if, while confined by the department of correction, the person:

- (1) is in credit Class I;
- (2) demonstrates a pattern consistent with rehabilitation; and
- (3) successfully completes requirements to obtain at least one (1) of the following:

(A) A certificate of completion of a vocational education program approved by the department of correction.

(B) A certificate of completion of a substance abuse program approved by the department of correction.

(c) The department of correction shall establish admissions criteria and other requirements for programs available for earning credit time under subsection (b). A person may not earn credit time under both subsection (a) and subsection (b) for the same program of study.

(d) The amount of credit time a person may earn under this section is the following:

- (1) Six (6) months for completion of a state of Indiana general educational development (GED) diploma under IC 20-10.1-12.1.
- (2) One (1) year for graduation from high school.
- (3) One (1) year for completion of an associate's degree.
- (4) Two (2) years for completion of a bachelor's degree.
- (5) Not more than a total of six (6) months of credit, as

determined by the department of correction, for the completion of one (1) or more vocational education programs approved by the department of correction.

(6) Not more than a total of six (6) months of credit, as determined by the department of correction, for the completion of one (1) or more substance abuse programs approved by the department of correction.

However, a person who does not have a substance abuse problem that qualifies the person to earn credit in a substance abuse program may earn not more than a total of twelve (12) months of credit, as determined by the department of correction, for the completion of one (1) or more vocational education programs approved by the department of correction. If a person earns more than six (6) months of credit for the completion of one (1) or more vocational education programs, the person is ineligible to earn credit for the completion of one (1) or more substance abuse programs.

(e) Credit time earned by a person under this section is subtracted from the release date that would otherwise apply to the person after subtracting all other credit time earned by the person.

(f) A person does not earn credit time under subsection (a) unless the person completes at least a portion of the degree requirements after June 30, 1993.

(g) A person does not earn credit time under subsection (b) unless the person completes at least a portion of the program requirements after June 30, 1999.

(h) Subsection (e) applies only to a person who completes at least a portion of the degree or program requirements under subsection (a) or (b) after June 30, 1999. Credit time earned by a person under subsection (a) for a diploma or degree completed before July 1, 1999, shall be subtracted from the period of imprisonment imposed on the person by the sentencing court.

(i) The maximum amount of credit time a person may earn under this section is the lesser of:

(1) four (4) years; or

(2) one-third (1/3) of the person's total applicable credit time.

SECTION 79. IC 36-3-4-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 24. (a) For each department of the consolidated city, the city-county legislative body

shall establish a standing committee, having at least three (3) members, to investigate the policies and expenditures of the department.

(b) The legislative body or its committee may:

- (1) hire an internal auditor **or** an independent certified public accountant, or both, to examine the books and records of the consolidated city, any of its special service districts or special taxing districts, and the county;
- (2) investigate any charges against a department, officer, or employee of the consolidated city, or any of its special service districts or special taxing districts, or the county; and
- (3) investigate the affairs of a person with whom a city or county agency has entered or is about to enter into a contract.

(c) When conducting an investigation under this section, the legislative body or its committee:

- (1) is entitled to access to all records pertaining to the investigation; and
- (2) may compel the attendance of witnesses and the production of evidence by subpoena and attachment served and executed in the county.

~~(c)~~ **(d)** If a person refuses to testify or produce evidence at an investigation conducted under this section, the legislative body may order its clerk to immediately present to the circuit court of the county a written report of the facts relating to the refusal. The court shall hear all questions relating to the refusal to testify or produce evidence and shall also hear any new evidence not included in the clerk's report. If the court finds that the testimony or evidence sought should be given or produced, it shall order the person to testify or produce evidence, or both.

SECTION 80. IC 36-4-3-22, AS AMENDED BY P.L.217-1999, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 22. (a) The clerk of the municipality shall do the following:

- (1) File each annexation ordinance against which a remonstrance or an appeal has not been filed during the period permitted under this chapter or the certified copy of a judgment ordering an annexation to take place with:

(A) the county auditor of each county in which the annexed territory is located;

- (B) the circuit court clerk of each county in which the annexed territory is located;
 - (C) if a board of registration exists, the registration board of each county in which the annexed territory is located; and
 - (D) the office of the secretary of state. ~~and~~
- (2) Record each annexation ordinance adopted under this chapter in the office of the county recorder of each county in which the annexed territory is located.
- (b) The copy must be filed and recorded no later than ninety (90) days after:
- (1) the expiration of the period permitted for a remonstrance or appeal; or
 - (2) the delivery of a certified order under section 15 of this chapter.
- (c) Failure to record the annexation ordinance as provided in subsection (a)(2) does not invalidate the ordinance.
- (d) The county auditor shall forward a copy of any annexation ordinance filed under this section to the following:
- (1) The county highway department of each county in which the lots or lands affected are located.
 - (2) The county surveyor of each county in which the lots or lands affected are located.
 - (3) Each plan commission, if any, that lost or gained jurisdiction over the annexed territory.
 - (4) The sheriff of each county in which the lots or lands affected are located.
 - (5) The township trustee of each township that lost or gained jurisdiction over the annexed territory.
 - (6) The office of the secretary of state.
- (e) The county auditor may require the clerk of the municipality to furnish an adequate number of copies of the annexation ordinance or may charge the clerk a fee for photoreproduction of the ordinance. The county auditor shall notify the office of the secretary of state of the date that the annexation ordinance is effective under this chapter.
- (f) The county auditor shall, upon determining that an annexation ordinance has become effective under this chapter, indicate the annexation upon the property taxation records maintained in the office of the auditor.

SECTION 81. IC 36-5-2-4.5, AS ADDED BY P.L.38-1999, SECTION 72, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4.5. (a) This section applies to a town if both of the following apply:

(1) The town has a population of more than ten thousand (10,000).

(2) The town legislative body adopts an ordinance adopting the provisions of this section. A town may not adopt an ordinance under this section during a year in which municipal elections are held under IC 3-10-6-5.

(b) A town legislative body has the following members:

(1) Five (5) members, each elected by the voters of a district. The districts are established by ordinance by the town legislative body as provided in this chapter.

(2) Two (2) members elected at large by all the voters of the town.

(c) An ordinance adopted under this section must provide for the following:

(1) Four (4) members of the legislative body are elected during a year that municipal elections are held under IC 3-10-6-5.

(2) Three (3) members of the legislative body are elected either:

(A) during the year before the year described in subdivision (1); or

(B) during the year after the year described in subdivision (1).

The year for elections under this subdivision must be chosen so that during the elections held for the town legislative body under subdivision (4), a member of the town legislative body does not serve a term of more than four (4) years.

(3) The members of the legislative body elected at large may not be elected at the same time.

(4) At the first two (2) elections after the ordinance is adopted, members are elected to serve the following terms:

(A) Two (2) members elected under subdivision (1) are elected to a four (4) year term and two (2) members elected under subdivision (1) are elected to a three (3) year term.

(B) Two (2) members elected under subdivision (2) are elected to a four (4) year term and one (1) member elected under subdivision (2) is elected to a three (3) year term.

The ordinance must provide a random procedure to determine

which members serve four (4) year terms and which members serve three (3) year terms.

(5) A member of the ~~town board~~ **town council** elected after the elections described in subdivision (4) serves a term of four (4) years.

(6) The term of office of a member begins ~~on~~ **at** noon January 1 after the member's election.

(d) An ordinance adopted under this section may provide that before the first election after adoption of the ordinance, members of the town legislative body added to the legislative body by the ordinance may be appointed to the legislative body by a vote of the current members of the legislative body.

(e) After the first two (2) elections held as described in subsection (c)(4), the town legislative body may adopt an ordinance to do the following:

- (1) Divide the town into seven (7) districts.
- (2) Provide that the members elected at large are each elected from a district.

An ordinance adopted under this subsection must comply with this chapter in establishing the districts and provide details to provide a transition from electing two (2) members at large to electing all members from districts.

(f) Subject to this section, members of the town legislative body are elected as provided in IC 3-10-6-4.5.

SECTION 82. IC 36-7-15.1-48, AS ADDED BY P.L.102-1999, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 48. (a) Notwithstanding any other law, the legislative body of the excluded city may pledge revenues received or to be received by the excluded city from:

- (1) the excluded city's distributive share of the county option income tax under IC 6-3.5-6;
 - (2) any other source legally available to the excluded city for the purposes of this chapter; or
 - (3) a combination of revenues under subdivisions (1) through (2);
- in any amount to pay amounts payable under section 45 or 46 of this chapter.

(b) The legislative body of the excluded city may covenant to adopt an ordinance to increase its tax rate under the county option income tax

or any other revenues at the time it is necessary to raise funds to pay amounts payable under section 45 or 46 of this chapter.

(c) The commission may pledge revenues received or to be received from any source legally available to it for the purposes of this chapter in any amount to pay amounts payable under section 45 or 46 of this chapter.

(d) The pledge or the covenant under this section may be for the life of the bonds issued under section 45 of this chapter, the term of a lease entered into under section 46 of this chapter, or for a shorter period as determined by the legislative body of the excluded city. Money pledged by the legislative body of the excluded city under this section shall be considered revenues or other money available to the commission under sections 45 through 46 of this chapter.

(e) The general assembly covenants not to impair this pledge or covenant so long as any bonds issued under section 45 of this chapter are outstanding or as long as any lease entered into under section 46 of this chapter is still in effect. The pledge or covenant shall be enforced as provided in IC 5-1-14-4.

SECTION 83. IC 36-8-10-10, AS AMENDED BY P.L.270-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) Except for the ~~positions~~ **position** of chief deputy, **the position of** prison matron, and in a county with a population of more than fifty thousand (50,000), temporary administrative ranks or positions established and appointed by the sheriff, the sheriff, with the approval of the board, shall establish a classification of ranks, grades, and positions for county police officers in the department. For each rank, grade, and position established, the sheriff, with the approval of the board, shall:

- (1) set reasonable standards of qualifications; and
- (2) fix the prerequisites of:
 - (A) training;
 - (B) education; and
 - (C) experience.

(b) The sheriff, with the approval of the board, shall devise and administer examinations designed to test applicants for the qualifications required for the respective ranks, grades, or positions. After these examinations, the sheriff and the board shall jointly prepare a list naming only those applicants who, in the opinion of both the

sheriff and the board, best meet the prescribed standards and prerequisites. The sheriff appoints county police officers but only from among the persons whose names appear on this list. All county police officers appointed to the department under this chapter are on probation for a period of one (1) year from the date of appointment.

(c) In a county with a population of more than fifty thousand (50,000), the sheriff may:

(1) establish a temporary administrative rank or position within the county police department; and

(2) appoint a county police officer that has served as a county police officer for at least five (5) years to and remove a county police officer from a temporary administrative rank or position; without the approval of the board. Any temporary administrative rank or position established pursuant to this section shall not diminish or reduce the number and classifications of the existing merit ranks within the county police department. A county police officer appointed under this subsection must have served as a county police officer in the county police department for at least five (5) years before the appointment. A county police officer retains the rank, grade, or position awarded under subsection (b) while serving in a temporary administrative rank or position. This subsection may not be construed to limit, modify, annul, or otherwise affect a collective bargaining agreement.

(d) In a county with a population of more than fifty thousand (50,000), the sheriff, with the approval of the board, shall establish written rules and regulations governing the discipline of county police officers. Rules and regulations established by a sheriff under this subsection must conform to the disciplinary procedure required by section 11 of this chapter.

SECTION 84. IC 36-8-16-16, AS AMENDED BY P.L.93-1999, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) Service suppliers shall provide upon request the necessary customer data to implement an enhanced emergency telephone system. Customer data provided to a county or municipality for the purpose of implementing or updating an enhanced emergency telephone system may be used only to identify the telephone location or service user, or both, and may not be used or disclosed by the county or municipality, or its agents or employees, for any other

purpose unless the data is used or disclosed under a court order. A person who violates this subsection commits a Class A misdemeanor.

(b) In providing 911 database information ~~under section 2(2)~~ **as described under section 2** of this chapter, the service supplier shall provide:

- (1) the telephone number service address;
- (2) the class of service; and
- (3) a designation of listed, unlisted, or nonpublished;

for each service user in the county or municipality. The service supplier shall provide this 911 database information to the county or municipality on a quarterly basis. The service supplier may charge a reasonable fee to the political subdivision for the administrative costs of providing the 911 database information. The service supplier may not be held liable in an action arising under this section.

SECTION 85. IC 36-9-3-5, AS AMENDED BY P.L.90-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) An authority is under the control of a board (referred to as "the board" in this chapter) that, except as provided in subsections (b) and (c), consists of:

- (1) two (2) members appointed by the executive of each county in the authority;
- (2) one (1) member appointed by the executive of the largest municipality in each county in the authority;
- (3) one (1) member appointed by the executive of each second class city in a county in the authority; and
- (4) one (1) member from any other political subdivision that has public transportation responsibilities in a county in the authority.

(b) An authority that includes a consolidated city is under the control of a board consisting of the following:

- (1) Two (2) members appointed by the executive of the county having the consolidated city.
- (2) One (1) member appointed by the board of commissioners of the county having the consolidated city.
- (3) One (1) member appointed by the executive of each other county in the authority.
- (4) Two (2) members appointed by the governor from a list of at least five (5) names provided by the Indianapolis regional transportation council.

(5) One (1) member representing the four (4) largest municipalities in the authority located in a county other than a county containing a consolidated city. The member shall be appointed by the executives of the municipalities acting jointly.

(6) One (1) member representing the excluded cities located in a county containing a consolidated city that are members of the authority. The member shall be appointed by the executives of the excluded cities acting jointly.

(7) One (1) member of a labor organization representing employees of the authority who provide public transportation services within the geographic jurisdiction of the authority. The labor organization shall appoint the member.

(c) An authority that includes a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) is under the control of a board consisting of the following sixteen (16) members:

(1) Three (3) members appointed by the executive of a municipality with a population of more than one hundred ten thousand (110,000) but less than one hundred twenty thousand (120,000) and located within a county with a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

(2) Two (2) members appointed by the executive of a municipality with a population of more than seventy-five thousand (75,000) but less than ninety thousand (90,000) and located within a county with a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

(3) One (1) member jointly appointed by the executives of:

(A) a municipality with a population of more than five thousand one hundred fifty (5,150) but less than five thousand two hundred (5,200) and located within a county with a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); and

(B) a municipality with a population of more than thirty-three thousand eight hundred fifty (33,850) but less than thirty-three thousand nine hundred (33,900) and located within a county with a population of more than four hundred thousand

(400,000) but less than seven hundred thousand (700,000).

(4) One (1) member who is jointly appointed by the fiscal body of the following municipalities located within a county with a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000):

(A) A municipality with a population of more than seventeen thousand eight hundred (17,800) but less than eighteen thousand (18,000).

(B) A municipality with a population of more than twenty-three thousand five hundred (23,500) but less than twenty-four thousand (24,000).

(C) A municipality with a population of more than nineteen thousand nine hundred forty (19,940) but less than twenty thousand (20,000).

(5) One (1) member who is jointly appointed by the fiscal body of the following municipalities located within a county with a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000):

(A) A municipality with a population of more than four thousand five hundred (4,500) but less than five thousand (5,000).

(B) A municipality with a population of more than nineteen thousand nine hundred (19,900) but less than nineteen thousand nine hundred forty (19,940).

(C) A municipality with a population of more than ten thousand (10,000) but less than eleven thousand (11,000).

(6) One (1) member who is jointly appointed by the following:

(A) The executive of a municipality with a population of more than seventeen thousand seven hundred (17,700) but less than seventeen thousand seven hundred fifty (17,750) and located within a county with a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

(B) The fiscal body of a town with a population of more than eight thousand eight hundred (8,800) but less than nine thousand five hundred (9,500) and located within a county with a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

- (C) The fiscal body of a town with a population of more than six thousand four hundred (6,400) but less than seven thousand (7,000) and located within a county with a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).
- (D) The fiscal body of a town with a population of more than three hundred (300) but less than four hundred (400) and located within a county with a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).
- (E) The fiscal body of a town with a population of more than ~~one thousand one hundred fifty (1,150)~~ **five hundred (500)** but less than one thousand ~~five hundred (1,500)~~ **(1,000)** and located within a county with a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).
- (7) One (1) member appointed by the fiscal body of a municipality with a population of more than twenty-six thousand five hundred (26,500) but less than twenty-eight thousand (28,000) and located within a county with a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).
- (8) One (1) member who is jointly appointed by the following individuals or entities representing municipalities that are located within a county with a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000):
- (A) The executive of a municipality having a population of more than twenty-one thousand five hundred (21,500) but less than twenty-three thousand (23,000).
- (B) The executive of a municipality having a population of more than thirteen thousand five hundred (13,500) but less than fourteen thousand five hundred (14,500).
- (C) The fiscal body of the municipality having a population of more than one thousand five hundred (1,500) but less than two thousand five hundred (2,500).
- (9) Three (3) members appointed by the fiscal body of a county with a population of more than four hundred thousand (400,000)

but less than seven hundred thousand (700,000).

(10) One (1) member appointed by the county executive of a county with a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

(11) One (1) member of a labor organization representing employees of the authority who provide public transportation services within the geographic jurisdiction of the authority. The labor organization shall appoint the member. If more than one (1) labor organization represents the employees of the authority, each organization shall submit one (1) name to the governor, and the governor shall appoint the member from the list of names submitted by the organizations.

SECTION 86. IC 36-9-3-12.5, AS ADDED BY P.L.90-1999, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12.5. (a) This section applies only to an authority located in a county with a population of more than four hundred thousand (400,000) with members appointed under section 5(c) of this chapter.

(b) The board shall establish a citizens advisory council consisting of eleven (11) members appointed as follows:

(1) Three (3) members appointed by the executive of a municipality with a population of more than one hundred ten thousand (110,000) but less than one hundred twenty thousand (120,000) and located within a county with a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

(2) Two (2) members appointed by the executive of a municipality with a population of more than seventy-five thousand (75,000) but less than ninety thousand (90,000) and located within a county with a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

(3) One (1) member appointed by the executive of a municipality with a population of more than thirty-three thousand eight hundred fifty (33,850) but less than thirty-three thousand nine hundred (33,900) and located within a county with a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

- (4) One (1) member selected from a list of citizens submitted by community based organizations which advocate for public transportation by the fiscal body of a county with a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).
- (5) One (1) member selected from a list of citizens submitted by community based organizations which advocate for public transportation by the county executive of a county with a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).
- (6) One (1) member who is jointly appointed by the following individuals or entities representing municipalities that are located within a county with a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000):
- (A) The executive of a municipality having a population of more than twenty-one thousand five hundred (21,500) but less than twenty-three thousand (23,000).
 - (B) The executive of a municipality having a population of more than thirteen thousand five hundred (13,500) but less than fourteen thousand five hundred (14,500).
 - (C) The fiscal body of a municipality having a population of more than one thousand five hundred (1,500) but less than two thousand five hundred (2,500).
- (7) One (1) member who is jointly appointed by the following:
- (A) The executive of a municipality with a population of more than seventeen thousand seven hundred (17,700) but less than seventeen thousand seven hundred fifty (17,750) and located within a county with a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).
 - (B) The fiscal body of a town with a population of more than eight thousand eight hundred (8,800) but less than nine thousand five hundred (9,500) and located within a county with a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).
 - (C) The fiscal body of a town with a population of more than six thousand four hundred (6,400) but less than seven

thousand (7,000) and located within a county with a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

(D) The fiscal body of a town with a population of more than three hundred (300) but less than four hundred (400) and located within a county with a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

(E) The fiscal body of a town with a population of more than ~~one thousand one hundred fifty (1,150)~~ **five hundred (500)** but less than one thousand ~~five hundred (1,500)~~ **(1,000)** and located within a county with a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

(8) One (1) member who is jointly appointed by the fiscal body of the following municipalities located within a county with a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000):

(A) A municipality with a population of more than seventeen thousand eight hundred (17,800) but less than eighteen thousand (18,000).

(B) A municipality with a population of more than twenty-three thousand five hundred (23,500) but less than twenty-four thousand (24,000).

(C) A municipality with a population of more than nineteen thousand nine hundred forty (19,940) but less than twenty thousand (20,000).

(c) A member of a citizens advisory council:

(1) must live in the geographic area represented by the appointing authority;

(2) may not be:

(A) an elected official; or

(B) a public employee of the appointing authority;

(3) may serve a two (2) year term; and

(4) may be reappointed to multiple terms.

(d) The citizens advisory council shall:

(1) meet at least once every six (6) months;

(2) review and make recommendations to the board on:

- (A) the authority plan;
 - (B) the proposed route and time schedule changes of the regional transportation system;
 - (C) the authority budget; and
 - (D) the hiring of the authority director;
- (3) be responsible for assuring direct citizen input into the authority plan; and
- (4) refer all complaints and concerns of citizens to the appropriate person or committee within the authority.

SECTION 87. P.L.69-1999, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: (a) Except as provided in subsection (b), the definitions in IC 20-16-1, as added by this act, apply throughout this SECTION.

(b) As used in this SECTION, "superintendent" refers to the individual who:

- (1) was appointed under IC 16-33-2-6, before its repeal by this act; and
- (2) serves as superintendent on June 30, 1999.

(c) Before July 1, 1999, the governor shall appoint the members of the board under IC 20-16-3-2(a)(1), as added by this act. Notwithstanding IC 20-16-3-4, as added by this act, the terms of office of the members appointed by the governor expire as follows:

- (1) The term of one (1) member of the board expires July 1, 2000.
- (2) The terms of two (2) members of the board expire July 1, 2001.
- (3) The terms of two (2) members of the board expire July 1, 2002.
- (4) The terms of two (2) members of the board expire July 1, 2003.

(d) When appointing members of the board under this SECTION, the following apply:

- (1) The governor shall state, subject to subsection (c), when the term of office of each member expires.
- (2) The governor shall, notwithstanding IC 20-16-3-6, as added by this act, appoint one (1) of the members as chair of the board. The member appointed as chair under this subdivision serves as chair until July 1, 2000, unless elected as chair under ~~IC 20-15-3-6~~, IC 20-16-3-6, as added by this act, to serve a new

term.

(3) The governor may appoint the member under IC 20-16-3-2(a)(3), as added by this act, as the governor considers appropriate.

(e) The board shall hold its first meeting in July of 1999, at the school and conduct business the board considers necessary.

(f) Before December 1, 1999, the board, with input from the state department of health and the department of education, shall adopt a transition plan for the transfer of the management and oversight of the school from the state department of health to the board or the superintendent as appropriate. The board shall submit the adopted transition plan to the governor, the state health commissioner, and the department of education.

(g) Notwithstanding IC 20-16, as added by this act, the school shall be administered by the state department of health and the state health commissioner until the board certifies to the governor and the state health commissioner that the board has adopted the transition plan required by subsection (f). The school shall be administered as provided in IC 16, before its amendment by this act, to the extent not inconsistent with an orderly transition from administration of the school by the state health commissioner to administration by the board and the superintendent.

(h) After the governor and the state health commissioner receive the certification required by subsection (g), all the following apply:

(1) The state health commissioner's authority over the school ends.

(2) The board shall administer the school under IC 20-16, as added by this act.

(3) All appropriations made to the school are transferred to the board. The auditor of state shall take all necessary action to transfer the balance of appropriations and other funds belonging to the school to the board.

(4) All rules adopted under IC 4-22-2 relating to the school are considered to be the rules of the board until the board amends or repeals the rules under IC 20-16, as added by this act.

(5) All references to the school in any statute, rule, or other legal document are considered references to the school under IC 20-16, as added by this act.

The board may send copies of the certification to other state agencies the board considers necessary to permit the school to operate under IC 20-16, as added by this act.

(i) The board shall prepare and submit a report to the legislative council not later than December 31, 1999, that describes the implementation of the transition plan under this SECTION.

(j) This SECTION expires July 1, 2003.

SECTION 88. P.L.196-1999, SECTION 73, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: (a) This SECTION applies if the judge serving as presiding judge of the St. Joseph superior court on June 30, 1999, would otherwise, in the absence of the amendment of IC 35-5-40-2 made by this act, serve any part of the judge's term as presiding judge after June 30, 1999.

(b) The judge of the St. Joseph superior court serving as presiding judge on June 30, 1999, is the initial chief judge of the St. Joseph superior court under ~~IC 35-5-40-2~~, **IC 33-5-40-23**, as amended by this act, for the remainder of the judge's unexpired term as presiding judge.

SECTION 89. P.L.224-1999, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: (a) As used in this SECTION, "existing source" means a source in the reinforced plastic composites fabricating industry that:

- (1) emits styrene; and
- (2) has been issued a construction permit or an operating permit by the department of environmental management.

(b) The department of environmental management shall do the following:

- (1) Before October 1, 1999, develop written policies and procedures to address changes in estimated air pollution emissions from existing sources.
- (2) Before publication under subdivision (3), make a proposed non-rule policy document available to the following for review and comment:
 - (A) The public.
 - (B) The air pollution control board.
 - (C) The environmental quality service council.
 - (D) The clean manufacturing technology **and safe materials** institute.
- (3) Not later than November 1, 1999, publish a non-rule policy

document describing the policies and procedures that the department will use to make determinations on air construction and operating permits for existing sources.

(c) Before December 31, 2000, the air pollution control board shall adopt rules to establish appropriate standards for control of air pollution from new and existing sources in the reinforced plastic composites fabricating industry. The air pollution control board shall consider all available information when adopting the rules, including the following:

- (1) Available control technology.
- (2) Industry work practices.
- (3) Materials available to the industry.
- (4) Recommendations by the clean manufacturing technology and safe materials institute.

(d) This SECTION expires July 1, 2001.

SECTION 90. An emergency is declared for this act.

P.L.15-2000

[H.1018. Approved March 7, 2000.]

AN ACT to amend the Indiana Code concerning education.

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

SECTION 1. IC 20-5-63 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]:

Chapter 63. Interscholastic Athletic Associations

Sec. 1. As used in this chapter, "association" means any organization that conducts, organizes, sanctions, or sponsors interscholastic high school athletic events as the organization's primary purpose.

Sec. 2. As used in this chapter, "case" refers to a decision of the association:

- (1) that concerns the application or interpretation of a rule of

the association to an individual student; and

(2) with which the student's parent disagrees.

Sec. 3. As used in this chapter, "panel" refers to the case review panel established under section 7 of this chapter.

Sec. 4. As used in this chapter, "parent" has the meaning set forth in IC 20-10.1-1-9.

Sec. 5. As used in this chapter, "state superintendent" refers to the state superintendent of public instruction.

Sec. 6. A school corporation may participate in an association or in an athletic event conducted, organized, sanctioned, or sponsored by an association only if the association complies with this chapter.

Sec. 7. (a) The association must establish a case review panel that meets the following requirements:

(1) The panel has nine (9) members.

(2) The state superintendent or the state superintendent's designee is a member of the panel and is the chairperson of the panel.

(3) The state superintendent shall appoint as members of the panel persons having the following qualifications:

(A) Four (4) parents of high school students.

(B) Two (2) high school principals.

(C) Two (2) high school athletic directors.

(4) A member of the panel serves for a four (4) year term, subject to the following:

(A) An appointee who ceases to meet the member's qualification under subdivision (3) ceases to be a member of the panel.

(B) The state superintendent shall appoint fifty percent (50%) of the initial appointees under each clause in subdivision (3) for terms of two (2) years, so that terms of the panel are staggered.

(5) The panel must meet monthly, unless there are no cases before the panel. The panel may meet more frequently at the call of the chairperson. However, the chairperson must call a meeting within five (5) business days after the panel receives a case in which time is a factor in relation to the scheduling of an athletic competition.

(6) A quorum of the panel is five (5) members. The affirmative

vote of five (5) members of the panel is required for the panel to take action.

(b) A student's parent who disagrees with a decision of the association concerning the application or interpretation of a rule of the association to the student shall have the right to do one (1) of the following:

(1) Accept the decision.

(2) Take legal action without first referring the case to the panel.

(3) Refer the case to the panel.

(c) Upon receipt of a case, the panel must do the following:

(1) Collect testimony and information on the case, including testimony and information from both the association and the parent.

(2) Place the case on the panel's agenda and consider the case at a meeting of the panel.

(3) Make one (1) of the following decisions:

(A) Uphold the association's decision on the case.

(B) Modify the association's decision on the case.

(C) Nullify the association's decision on the case.

(d) The association must implement the decision of the panel on each case. However, a decision of the panel:

(1) applies only to the case before the panel; and

(2) does not affect any rule of the association or decision under any rule concerning any student other than the student whose parent referred the case to the panel.

(e) The association shall pay all costs attributable to the operation of the panel, including travel and per diem for panel members.

P.L.16-2000

[H.1054. Approved March 7, 2000.]

AN ACT to amend the Indiana Code concerning education finance.

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

SECTION 1. IC 20-5-4-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 1.5. (a) For purposes of this section, "retirement or severance liability" means the payments anticipated to be required to be made to employees of a school corporation upon or after the termination of their employment by the school corporation under an existing or previous employment agreement.**

(b) In addition to the purposes set forth in section 1 of this chapter, school corporations located in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000) may issue bonds to implement solutions to contractual retirement or severance liability. The issuance of bonds for this purpose is subject to the following limitations:

- (1) A school corporation may issue bonds for the purpose described in this section only one (1) time.**
- (2) The solution to which the bonds are contributing must be reasonably expected to reduce the school corporation's existing unfunded contractual liability for retirement or severance payments, as of June 30, 1998.**
- (3) The amount of the bonds that may be issued for the purpose described in this section may not exceed two percent (2%) of the total assessed valuation of property in the school corporation.**
- (4) Each year that a debt service levy is needed under this section, the school corporation shall reduce its total property tax levy for the school corporation's transportation, capital projects, or art association and historical society funds in an amount equal to the property tax levy needed for the debt**

service under this section. The property tax rate for each of these funds shall be reduced each year until the bonds are retired.

(c) Bonds issued for the purpose described in this section shall be issued in the same manner as other bonds of the school corporation.

(d) Bonds issued under this section must be issued before December 2, 2000.

SECTION 2. IC 20-5-4-1.5 IS REPEALED [EFFECTIVE DECEMBER 2, 2000].

SECTION 3. [EFFECTIVE DECEMBER 2, 2000] **Notwithstanding the repeal of IC 20-5-4-1.5, as added by this act, the following provisions apply to bonds issued under IC 20-5-4-1.5, as added by this act, before December 2, 2000:**

(1) The bonds remain valid and binding obligations of the school corporation that issued them, as if IC 20-5-4-1.5 had not been repealed.

(2) Each year that a debt service levy is needed for the bonds, the school corporation that issued the bonds shall reduce its total property tax levy for the school corporation's other funds in an amount equal to the property tax levy needed for the debt service on the bonds.

P.L.17-2000

[H.1157. Approved March 7, 2000.]

AN ACT to amend the Indiana Code concerning local government.

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

SECTION 1. IC 20-5-6-9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 9. (a) As used in this section, "public school endowment corporation" means a corporation that is:**

(1) organized under the Indiana Nonprofit Corporation Act

of 1991 (IC 23-17);

(2) organized exclusively for educational, charitable, and scientific purposes; and

(3) formed for the purpose of providing educational resources to:

(A) a particular school corporation or school corporations;
or

(B) the schools in a particular geographic area.

(b) As used in this section, "proceeds from riverboat gaming" means tax revenue received by a political subdivision under IC 4-33-12-6, IC 4-33-13, or an agreement to share a city's or county's part of the tax revenue.

(c) As used in this section, "political subdivision" has the meaning set forth in IC 36-1-2-13.

(d) A political subdivision may donate proceeds from riverboat gaming to a public school endowment corporation under the following conditions:

(1) The public school endowment corporation retains all rights to the donation, including investment powers.

(2) The public school endowment corporation agrees to return the donation to the political subdivision if the corporation:

(A) loses the corporation's status as a public charitable organization;

(B) is liquidated; or

(C) violates any condition of the endowment set by the fiscal body of the political subdivision.

(e) A public school endowment corporation may distribute both principal and income.

SECTION 2. IC 36-1-14-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1. (a) This section does not apply to donations of proceeds from riverboat gaming to a public school endowment corporation under IC 20-5-6-9.

(b) As used in this section, "riverboat gaming revenue" means tax revenue received by a unit under IC 4-33-12-6, IC 4-33-13, or an agreement to share a city's or county's part of the tax revenue.

(c) Notwithstanding IC 8-1.5-2-6(d), a unit may donate the proceeds from the sale of a utility or facility or from a grant, a gift, a donation, an endowment, a bequest, or a trust, or riverboat gaming revenue to a foundation under the following conditions:

- (1) The foundation is a charitable nonprofit community foundation.
- (2) The foundation retains all rights to the donation, including investment powers.
- (3) The foundation agrees to do the following:
 - (A) Hold the donation as a permanent endowment.
 - (B) Distribute the income from the donation only to the unit as directed by resolution of the fiscal body of the unit.
 - (C) Return the donation to the general fund of the unit if the foundation:
 - (i) loses the foundation's status as a public charitable organization;
 - (ii) is liquidated; or
 - (iii) violates any condition of the endowment set by the fiscal body of the unit.

SECTION 3. [EFFECTIVE JULY 1, 2000] **(a) The definitions set forth in IC 20-5-6-9, as added by this act, apply throughout this SECTION.**

(b) A donation of proceeds of riverboat gaming to a public school endowment corporation that:

- (1) was made by a political subdivision before July 1, 2000; and**
- (2) would have been permitted by IC 20-5-6-9, as added by this act, if IC 20-5-6-9 had been in effect before July 1, 2000; is legalized and validated.**

P.L.18-2000

[H.1158. Approved March 7, 2000.]

AN ACT to amend the Indiana Code concerning education finance.

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

SECTION 1. IC 21-3-1.8-6, AS AMENDED BY P.L.273-1999, SECTION 144, IS AMENDED TO READ AS FOLLOWS

[EFFECTIVE DECEMBER 31, 1999 (RETROACTIVE)]: Sec. 6. This chapter expires January 1, ~~2000~~ **2002**.

SECTION 2. IC 21-3-1.9 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 1.9. Forgiveness of the Obligation to Repay State Support Attributable to Certain Students

Sec. 1. This chapter applies to a school corporation that offers vocational education through programs offered by the Area 30 Career Center.

Sec. 2. As used in this chapter, "department" refers to the department of education.

Sec. 3. As used in this chapter, "state support" refers to money distributed to a school corporation under the following:

- (1) State tuition support (IC 21-3-1.7).
- (2) Distribution for transportation (IC 21-3-3.1).
- (3) Alternative education program grant (IC 21-3-11).
- (4) Average daily attendance flat grant (IC 21-3-4.5).
- (5) Vocational education grants (IC 21-3-1.8).

Sec. 4. If:

- (1) the department determines that a school corporation incorrectly included students participating in an alternative education program offered through the Area 30 Career Center in the school corporation's:
 - (A) average daily membership;
 - (B) average daily attendance; and
 - (C) additional pupil count; and
- (2) the school corporation received state support attributable to the students described in subdivision (1) during the period beginning January 1, 1995, and ending December 31, 1999; the school corporation's obligation to repay the part of the state support attributable to the students participating in an alternative education program offered through the Area 30 Career Center is forgiven and released.

Sec. 5. This chapter expires January 1, 2001.

SECTION 3. [EFFECTIVE JANUARY 1, 2000 (RETROACTIVE)]
 (a) Notwithstanding IC 21-3-1.9, as added by this act, a school corporation may not include a student participating in an alternative education program offered through the Area 30 Career

Center in the school corporation's:

- (1) average daily membership;
- (2) average daily attendance; or
- (3) additional pupil count;

for the purpose of calculating the school corporation's state support for calendar year 2000 unless the requirements for counting the student are satisfied. In addition, the school corporation may not include the student in the school corporation's previous year average daily membership, average daily attendance, additional pupil count, or the school corporation's previous year revenue for the purposes of IC 21-3-1.7.

(b) This SECTION expires December 31, 2001.

SECTION 4. An emergency is declared for this act.

P.L.19-2000

[H.1166. Approved March 7, 2000.]

AN ACT to amend the Indiana Code concerning taxation.

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

SECTION 1. IC 6-1.1-10-16.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: **Sec. 16.7. Real property is exempt from property taxation if:**

- (1) the real property is located within a county containing a consolidated city;
- (2) the real property is owned by an Indiana corporation;
- (3) the improvements on the real property were constructed, rehabilitated, or acquired for the purpose of providing housing to income eligible persons under the federal low income housing tax credit program under 26 U.S.C. 42;
- (4) the real property is subject to an extended use agreement under 26 U.S.C. 42 as administered by the Indiana housing finance authority; and

(5) the owner of the property has entered into an agreement to make payments in lieu of taxes under IC 36-3-2-11.

SECTION 2. IC 36-3-2-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 11. (a) As used in this section, the following terms have the meanings set forth in IC 6-1.1-1:**

- (1) Assessed value.**
- (2) Exemption.**
- (3) Owner.**
- (4) Person.**
- (5) Property taxation.**
- (6) Real property.**
- (7) Township assessor.**

(b) As used in this section, "PILOTS" means payments in lieu of taxes.

(c) As used in this section, "property owner" means the owner of real property described in IC 6-1.1-10-16.7.

(d) Subject to the approval of a property owner, the legislative body of the consolidated city may adopt an ordinance to require the property owner to pay PILOTS at times set forth in the ordinance with respect to real property that is subject to an exemption under IC 6-1.1-10-16.7. The ordinance remains in full force and effect until repealed or modified by the legislative body, subject to the approval of the property owner.

(e) The PILOTS must be calculated so that the PILOTS are in an amount equal to the amount of property taxes that would have been levied by the legislative body for the consolidated city and county upon the real property described in subsection (d) if the property were not subject to an exemption from property taxation.

(f) PILOTS shall be imposed as are property taxes and shall be based on the assessed value of the real property described in subsection (d). The township assessors shall assess the real property described in subsection (d) as though the property were not subject to an exemption.

(g) PILOTS collected under this section shall be deposited in the housing trust fund established under IC 36-7-15.1-35.5 and used for any purpose for which the housing trust fund may be used.

(h) PILOTS shall be due as set forth in the ordinance and bear interest, if unpaid, as in the case of other taxes on property.

PILOTS shall be treated in the same manner as taxes for purposes of all procedural and substantive provisions of law.

SECTION 3. IC 36-7-15.1-35.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 35.5. (a) The general assembly finds the following:**

(1) Federal law permits the sale of a multiple family housing project that is or has been covered, in whole or in part, by a contract for project based assistance from the United States Department of Housing and Urban Development without requiring the continuation of that project based assistance.

(2) Such a sale displaces the former residents of a multiple family housing project described in subdivision (1) and increases the shortage of safe and affordable housing for persons of low and moderate income within the county.

(3) The displacement of families and individuals from affordable housing requires increased expenditures of public funds for crime prevention, public health and safety, fire and accident prevention, and other public services and facilities.

(4) The establishment of a supplemental housing program under this section will do the following:

(A) Benefit the health, safety, morals, and welfare of the county and the state.

(B) Serve to protect and increase property values in the county and the state.

(C) Benefit persons of low and moderate income by making affordable housing available to them.

(5) The establishment of a supplemental housing program under this section and sections 32 through 35 of this chapter is:

(A) necessary in the public interest; and

(B) a public use and purpose for which public money may be spent and private property may be acquired.

(b) In addition to its other powers with respect to a housing program under sections 32 through 35 of this chapter, the commission may establish a supplemental housing program. Except as provided by this section, the commission has the same powers and duties with respect to the supplemental housing program that the commission has under sections 32 through 35 of

this chapter with respect to the housing program.

(c) One (1) allocation area may be established for the supplemental housing program. The commission is not required to make the findings required under section 34(5) through 34(8) of this chapter with respect to the allocation area. However, the commission must find that the property contained within the boundaries of the allocation area consists solely of one (1) or more multiple family housing projects that are or have been covered, in whole or in part, by a contract for project based assistance from the United States Department of Housing and Urban Development or have been owned at one time by a public housing agency. The allocation area need not be contiguous. The definition of "base assessed value" set forth in section 35(a) of this chapter applies to the special fund established under section 26(b) of this chapter for the allocation area.

(d) The special fund established under section 26(b) of this chapter for the allocation area established under this section may be used only for the following purposes:

(1) Subject to subdivision (2), on January 1 and July 1 of each year the balance of the special fund shall be transferred to the housing trust fund established under subsection (e).

(2) The commission may provide each taxpayer in the allocation area a credit for property tax replacement in the manner provided by section 35(b)(7) of this chapter. Transfers made under subdivision (1) shall be reduced by the amount necessary to provide the credit.

(e) The commission shall, by resolution, establish a housing trust fund to be administered, subject to the terms of the resolution, by:

(1) the housing division of the consolidated city; or

(2) the department, division, or agency that has been designated to perform the public housing function by an ordinance adopted under IC 36-7-18-1.

(f) The housing trust fund consists of:

(1) amounts transferred to the fund under subsection (d);

(2) payments in lieu of taxes deposited in the fund under IC 36-3-2-11;

(3) gifts and grants to the fund;

(4) investment income earned on the fund's assets; and

(5) other funds from sources approved by the commission.

(g) The commission shall, by resolution, establish uses for the housing trust fund. However, the uses must be limited to:

- (1) providing financial assistance to those individuals and families whose income is at or below eighty percent (80%) of the county's median income for individuals and families, respectively, to enable those individuals and families to purchase or lease residential units within the county;**
- (2) paying expenses of administering the fund;**
- (3) making grants, loans, and loan guarantees for the development, rehabilitation, or financing of affordable housing for individuals and families whose income is at or below eighty percent (80%) of the county's median income for individuals and families, respectively, including the elderly, persons with disabilities, and homeless individuals and families; and**
- (4) providing technical assistance to nonprofit developers of affordable housing.**

(h) At least fifty percent (50%) of the dollars allocated for production, rehabilitation, or purchase of housing must be used for units to be occupied by individuals and families whose income is at or below fifty percent (50%) of the county's area median income for individuals and families respectively.

(i) The low income housing trust fund advisory committee is established. The low-income housing trust fund advisory committee consists of eleven (11) members. The membership of the low income housing trust fund advisory committee is comprised of:

- (1) one (1) member appointed by the mayor, to represent the interests of low income families;**
- (2) one (1) member appointed by the mayor, to represent the interests of owners of subsidized, multifamily housing communities;**
- (3) one (1) member appointed by the mayor, to represent the interests of banks and other financial institutions;**
- (4) one (1) member appointed by the mayor, of the department of metropolitan development;**
- (5) three (3) members representing the community at large appointed by the commission, from nominations submitted to the commission as a result of a general call for nominations from neighborhood associations, community based**

organizations, and other social services agencies;

(6) one (1) member appointed by and representing the Coalition for Homeless Intervention and Prevention of Greater Indianapolis;

(7) one (1) member appointed by and representing the Local Initiatives Support Corporation;

(8) one (1) member appointed by and representing the Indianapolis Coalition for Neighborhood Development; and

(9) one (1) member appointed by and representing the Indianapolis Neighborhood Housing Partnership.

Members of the low income housing trust fund advisory committee serve for a term of four (4) years, and are eligible for reappointment. If a vacancy exists on the committee, the appointing authority who appointed the former member whose position has become vacant shall appoint an individual to fill the vacancy. A committee member may be removed at any time by the appointing authority who appointed the committee member.

(j) The low income housing trust fund advisory committee shall make recommendations to the commission regarding:

(1) the development of policies and procedures for the uses of the low income housing trust fund; and

(2) long term sources of capital for the low income housing trust fund, including:

(A) revenue from:

(i) development ordinances;

(ii) fees; or

(iii) taxes;

(B) financial market based income;

(C) revenue derived from private sources; and

(D) revenue generated from grants, gifts, donations or income in any other form, from a:

(i) government program;

(ii) foundation; or

(iii) corporation.

(k) The county treasurer shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

SECTION 4. [EFFECTIVE JULY 1, 2000] IC 6-1.1-10-16.7, as added by this act, applies to property taxes first due and payable

after December 31, 2000.

P.L.20-2000

[H.1330. Approved March 7, 2000.]

AN ACT to amend the Indiana Code concerning education.

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

SECTION 1. IC 20-12-61-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Ivy Tech shall be governed by a board of trustees ~~composed of thirteen (13) members~~; appointed by the governor. **The number of members of the state board must equal the number of regions established under section 9 of this chapter.** Each member of the state board must have knowledge or experience in one (1) or more of the following areas:

- (1) Manufacturing.
- (2) Commerce.
- (3) Labor.
- (4) Agriculture.
- (5) State and regional economic development needs.
- (6) Indiana's educational delivery system.

~~At least~~ One (1) ~~trustee member of the state board~~ must reside in each region established under section ~~9(4)~~ 9 of this chapter. Appointments shall be for three (3) year terms, on a staggered basis.

(b) No one who holds an elective or appointed office of the state is eligible to serve as a member of the state board. A member of a regional board may be appointed to the state board, but must then resign from the regional board.

SECTION 2. **An emergency is declared for this act.**

P.L.21-2000

[S.108. Approved March 13, 2000.]

AN ACT to amend the Indiana Code concerning state offices and administration and to make an appropriation.

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

SECTION 1. IC 4-12-1-14.3, AS ADDED BY P.L.273-1999, SECTION 232, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 14.3. **(a) As used in this section, "master settlement agreement" has the meaning set forth in IC 24-3-3-6.**

(b) There is hereby created the **Indiana tobacco **master settlement agreement** fund for the purpose of depositing **and distributing money received under the master settlement agreement. The fund consists of:****

- (1) all money received by the state ~~from~~ **under** the master settlement agreement; ~~with the United States² tobacco product manufacturers.~~**
- (2) appropriations made to the fund by the general assembly; and**
- (3) grants, gifts, and donations intended for deposit in the fund.**

(c) Money may be expended, transferred, or distributed from the fund during a state fiscal year only in amounts permitted by subsections (d) through (e), and only if the expenditures, transfers, or distributions are specifically authorized by another statute.

(d) The maximum amount of expenditures, transfers, or distributions that may be made from the fund during the state fiscal year beginning July 1, 2000, is determined under STEP THREE of the following formula:

STEP ONE: Determine the sum of money received or to be received by the state under the master settlement agreement before July 1, 2001.

STEP TWO: Subtract from the STEP ONE sum the amount

appropriated by P.L.273-1999, SECTION 8, to the children's health insurance program from funds accruing to the state from the tobacco settlement for the state fiscal years beginning July 1, 1999, and July 1, 2000.

STEP THREE: Multiply the STEP TWO remainder by fifty percent (50%).

(e) The maximum amount of expenditures, transfers, or distributions that may be made from the fund during the state fiscal year beginning July 1, 2001, and each state fiscal year after that is equal to sixty percent (60%) of the amount of money received or to be received by the state under the master settlement agreement during that state fiscal year.

(f) The following amounts shall be retained in the fund and may not be expended, transferred, or otherwise distributed from the fund:

(1) All of the money that is received by the state under the master settlement agreement and remains in the fund after the expenditures, transfers, or distributions permitted under subsections (c) through (e).

(2) All interest that accrues from investment of money in the fund, unless specifically appropriated by the general assembly.

(g) The fund shall be administered by the budget agency. **Notwithstanding IC 5-13**, the treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as ~~other public~~ money is invested **by the public employees retirement fund under IC 5-10.3-5**. The treasurer of state may contract with investment management professionals, investment advisors, and legal counsel to assist in the management of the fund and may pay the state expenses incurred under those contracts from the fund. Interest that accrues from these investments shall be deposited in the fund. Money in the fund at the end of the state fiscal year does not revert to the state general fund.

(h) **The state general fund is not liable for payment of a shortfall in expenditures, transfers, or distributions from the Indiana tobacco master settlement agreement fund or any other fund due to a delay, reduction, or cancellation of payments scheduled to be received by the state under the master settlement agreement. If such a shortfall occurs in any state fiscal year, all expenditures,**

transfers, and distributions affected by the shortfall shall be reduced proportionately.

SECTION 2. IC 4-12-4 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2000]:

Chapter 4. Indiana Tobacco Use Prevention and Cessation Trust Fund

Sec. 1. As used in this chapter, "executive board" refers to the Indiana tobacco use prevention and cessation executive board created by section 4 of this chapter.

Sec. 2. As used in this chapter, "fund" refers to the Indiana tobacco use prevention and cessation trust fund created by this chapter.

Sec. 3. As used in this chapter, "master settlement agreement" has the meaning set forth in IC 24-3-3-6.

Sec. 4. (a) The Indiana tobacco use prevention and cessation executive board is created.

(b) The executive board is an agency of the state.

(c) The executive board consists of the following:

(1) The following five (5) ex officio members:

(A) The executive director employed under section 6 of this chapter.

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

(C) The attorney general, or the attorney general's designee.

(D) The commissioner of the state department of health, or the commissioner's designee.

(E) The secretary of the family and social services administration, or the secretary's designee.

(2) Eleven (11) members who are appointed by the governor and have knowledge, skill, and experience in smoking reduction and cessation programs, health care services, or preventive health care measures.

(3) Six (6) members who are appointed by the governor who represent the following organizations:

(A) The American Cancer Society.

(B) The American Heart Association, Indiana Affiliate.

(C) The American Lung Association of Indiana.

- (D) The Indiana Hospital and Health Association.**
- (E) The Indiana State Medical Association.**
- (F) The Indiana Council of Community Mental Health Centers.**

The executive director serves as a nonvoting member and all other members serve as voting members.

(d) During a member's term of service on the executive board, an appointed member of the executive board may not be an official or employee of the state.

(e) Not more than six (6) members of the executive board appointed under subsection (c)(2) may belong to the same political party.

(f) A member appointed under subsection (c)(2) serves a four (4) year term and shall hold over after the expiration of the member's term until the member's successor is appointed and qualified. A member appointed under subsection (c)(3) serves until the member resigns or is removed from the executive board by the governor.

(g) The governor may reappoint an appointed member of the executive board.

(h) A vacancy with respect to a member appointed under subsection (c)(2) shall be filled for the balance of an unexpired term in the same manner as the original appointment. A vacancy with respect to a member appointed under subsection (c)(3) shall be filled in the same manner as the original appointment.

(i) The governor shall designate a member to serve as chairperson of the executive board. The executive board shall annually elect one (1) of its ex officio members as vice chairperson and may elect any other officer that the executive board desires.

(j) The governor may remove a member appointed under subsection (c)(2) for misfeasance, malfeasance, willful neglect of duty, or other cause after notice and a public hearing, unless the member expressly waives the notice and hearing in writing.

Sec. 5. (a) An appointed member of the executive board who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). Each appointed member is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties.

(b) An ex officio member of the executive board is entitled to reimbursement for traveling expenses and other expenses actually

incurred in connection with the member's duties.

Sec. 6. (a) The executive board may:

- (1) employ an executive director; and**
- (2) delegate necessary and appropriate functions and authority to the executive director.**

(b) Subject to the approval of the executive board, the executive director may do the following:

- (1) Employ staff necessary to advise and assist the executive board as required by this chapter.**
- (2) Fix compensation of staff according to the policies currently enforced by the budget agency and the state personnel department.**
- (3) Engage experts and consultants to assist the executive board.**
- (4) Expend funds made available to the staff according to the policies established by the budget agency.**
- (5) Establish policies, procedures, standards, and criteria necessary to carry out the duties of the staff of the executive board.**

Sec. 7. (a) Eleven (11) voting members of the executive board constitute a quorum for:

- (1) the transaction of business at a meeting of the executive board; or**
- (2) the exercise of a power or function of the executive board.**

(b) The affirmative vote of a majority of all the voting members of the executive board is necessary for the executive board to take action. A vacancy in the membership of the executive board does not impair the right of a quorum to exercise all the rights and perform all the duties of the executive board.

(c) The executive board shall meet at least quarterly and at the call of the chairperson.

Sec. 8. (a) The executive board is a public agency for purposes of IC 5-14-1.5 and IC 5-14-3.

(b) The executive board is a governing body for purposes of IC 5-14-1.5.

Sec. 9. In addition to any other power granted by this chapter, the executive board may:

- (1) adopt an official seal and alter the seal at its pleasure;**
- (2) adopt rules, under IC 4-22-2, for the regulation of its**

affairs and the conduct of its business and prescribe policies in connection with the performance of its functions and duties;

(3) accept gifts, devise, bequests, grants, loans, appropriations, revenue sharing, other financing and assistance, and any other aid from any source and agree to and comply with conditions attached to that aid;

(4) make, execute, and effectuate any and all contracts, agreements, or other documents with any governmental agency or any person, corporation, limited liability company, association, partnership, or other organization or entity necessary or convenient to accomplish the purposes of this chapter, including contracts for the provision of all or any portion of the services the executive board considers necessary for the management and operations of the executive board;

(5) recommend legislation to the governor and general assembly; and

(6) do any and all acts and things necessary, proper, or convenient to carry out this article.

Sec. 10. (a) The Indiana tobacco use prevention and cessation trust fund is established. The executive board may expend money from the fund and make grants from the fund to implement the long range state plan established under this chapter. General operating and administrative expenses of the executive board are also payable from the fund.

(b) The fund consists of:

(1) amounts, if any, that another statute requires to be distributed to the fund from the Indiana tobacco master settlement agreement fund;

(2) appropriations to the fund from other sources;

(3) grants, gifts, and donations intended for deposit in the fund; and

(4) interest that accrues from money in the fund.

(c) The fund shall be administered by the executive board. Notwithstanding IC 5-13, the treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as money is invested by the public employees retirement fund under IC 5-10.3-5. The treasurer of

state may contract with investment management professionals, investment advisors, and legal counsel to assist in the management of the fund and may pay the state expenses incurred under those contracts. Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(d) All income and assets of the executive board deposited in the fund are for the use of the executive board without appropriation.

Sec. 11. (a) The executive board shall develop:

(1) a mission statement concerning prevention and reduction of the usage of tobacco and tobacco products in Indiana, including:

(A) emphasis on prevention and reduction of tobacco use by minorities, pregnant women, children, and youth, including seriously and emotionally disturbed youth;

(B) encouragement of smoking cessation;

(C) production and distribution of information concerning the dangers of tobacco use and tobacco related diseases;

(D) providing research on issues related to reduction of tobacco use;

(E) enforcement of laws concerning sales of tobacco to youth and use of tobacco by youth; and

(F) other activities that the executive board considers necessary and appropriate for inclusion in the mission statement; and

(2) a long range state plan, based on Best Practices for Tobacco Control Programs as published by the Centers for Disease Control and Prevention, for:

(A) the provision of services by the executive board, public or private entities, and individuals to implement the executive board's mission statement; and

(B) the coordination of state efforts to reduce usage of tobacco and tobacco products.

The executive board shall update the mission statement and long range state plan as necessary to carry out the purposes of this chapter.

(b) The long range state plan described in subsection (a) must:

(1) cover a period of at least five (5) years;

(2) include base line data concerning tobacco usage;

(3) set forth specific goals for prevention and reduction of

tobacco usage in Indiana; and

(4) be made available to the governor, the general assembly, and any other appropriate state or federal agency.

Sec. 12. A public or private entity or an individual may submit an application to the executive board for a grant from the fund. Each application must be in writing and contain the following information:

- (1) A clear objective to be achieved with the grant.
- (2) A plan for implementation of the specific program.
- (3) A statement of the manner in which the proposed program will further the goals of the executive board's mission statement and long range state plan.
- (4) The amount of the grant requested.
- (5) An evaluation and assessment component to determine the program's performance.
- (6) Any other information required by the executive board.

The executive board may adopt written guidelines to establish procedures, forms, additional evaluation criteria, and application deadlines.

Sec. 13. The expenditure of state funds (other than a grant awarded under this chapter) for a program concerning prevention or reduction of tobacco usage that is operated by a state agency or a public or private entity is subject to the approval of the executive board. The state agency or public or private entity shall submit a description of the proposed expenditure to the executive board for the executive board's review and approval. The description submitted under this section must include the following:

- (1) The objective to be achieved through the expenditure.
- (2) The plan for implementation of the expenditure.
- (3) The extent to which the expenditure will supplement or duplicate existing expenditures of other state agencies, public or private entities, or the executive board.

Sec. 14. The executive board shall prepare an annual financial report and an annual report concerning the executive board's activities under this chapter and promptly transmit the annual reports to the governor and the legislative council. The executive board shall make the annual reports available to the public upon request.

Sec. 15. The funds, accounts, management, and operations of the

executive board are subject to annual audit by the state board of accounts.

Sec. 16. (a) The Indiana tobacco use prevention and cessation advisory board is established. The board consists of:

- (1) the executive director employed under section 6 of this chapter, who shall serve as the chairperson of the advisory board; and**
- (2) other members appointed by the governor who have knowledge, skill, and experience in smoking reduction and cessation programs, health care services, or preventive health care measures.**

(b) The advisory committee shall meet at least quarterly and at the call of the chairperson.

(c) The advisory committee shall, as considered necessary by the advisory committee or as requested by the executive board, make recommendations to the executive committee concerning:

- (1) the development and implementation of the mission statement and long range state plan under section 11 of this chapter;**
- (2) the criteria to be used for the evaluation of grant applications under this chapter;**
- (3) the coordination of public and private efforts concerning reduction and prevention of tobacco usage; and**
- (4) any other matters for which the executive board requests recommendations from the advisory committee.**

(d) Members of the advisory committee are not entitled to a salary per diem or reimbursement of expenses for service on the advisory committee.

(e) The advisory committee may establish subcommittees as necessary to carry out its duties under this section.

SECTION 3. IC 4-12-5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 2000]:

Chapter 5. Indiana Health Care Trust Fund

Sec. 1. As used in this chapter, "fund" refers to the Indiana health care trust fund established by section 3 of this chapter.

Sec. 2. As used in this chapter, "master settlement agreement" has the meaning set forth in IC 24-3-3-6.

Sec. 3. (a) The Indiana health care trust fund is established for

the purpose of promoting the health of the citizens of Indiana. The fund consists of:

- (1) amounts, if any, that another statute requires to be distributed to the fund from the Indiana tobacco master settlement agreement fund;**
- (2) appropriations to the fund from other sources;**
- (3) grants, gifts, and donations intended for deposit in the fund; and**
- (4) interest that accrues from money in the fund.**

(b) The fund shall be administered by the budget agency. Notwithstanding IC 5-13, the treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as money is invested by the public employees retirement fund under IC 5-10.3-5. The treasurer of state may contract with investment management professionals, investment advisors, and legal counsel to assist in the management of the fund and may pay the state expenses incurred under those contracts. Money in the fund at the end of the state fiscal year does not revert to the state general fund.

Sec. 4. Subject to appropriation by the general assembly, review by the budget committee, and approval by the budget agency, the treasurer of state shall distribute money from the fund to public or private entities or individuals for the implementation of programs concerning one (1) or more of the following purposes:

- (1) The children's health insurance program established under IC 12-17.6.**
- (2) Cancer detection tests and cancer education programs.**
- (3) Heart disease and stroke education programs.**
- (4) Assisting community health centers in providing:**
 - (A) vaccinations against communicable diseases, with an emphasis on service to youth and senior citizens;**
 - (B) health care services and preventive measures that address the special health care needs of minorities (as defined in IC 16-46-6-2); and**
 - (C) health care services and preventive measures in rural areas.**
- (5) Promoting health and wellness activities.**
- (6) Encouraging the prevention of disease, particularly tobacco related diseases.**

- (7) Addressing the special health care needs of those who suffer most from tobacco related diseases, including end of life and long term care alternatives.**
- (8) Addressing minority health disparities.**
- (9) Addressing the impact of tobacco related diseases, particularly on minorities and females.**
- (10) Promoting community based health care, particularly in areas with a high percentage of underserved citizens, including individuals with disabilities, or with a shortage of health care professionals.**
- (11) Enhancing local health department services.**
- (12) Expanding community based minority health infrastructure.**
- (13) Other purposes recommended by the Indiana health care trust fund advisory board established by section 5 of this chapter.**

Sec. 5. (a) The Indiana health care trust fund advisory board is established. The advisory board shall meet at least quarterly and at the call of the chairperson to make recommendations to the governor, the budget agency, and the general assembly concerning the priorities for appropriation and distribution of money from the fund.

(b) The advisory board consists of the following:

(1) The following three (3) ex officio members:

(A) The director of the budget agency or the director's designee.

(B) The commissioner of the state department of health or the commissioner's designee.

(C) The secretary of family and social services or the secretary's designee.

(2) Two (2) members of the senate, who may not be members of the same political party, appointed by the president pro tempore of the senate.

(3) Two (2) members of the house of representatives, who may not be members of the same political party, appointed by the speaker of the house.

(4) The following appointees by the governor who represent the following organizations or interests:

(A) The Indiana Dental Association.

- (B) The Indiana Hospital and Health Association.**
- (C) The Indiana Minority Health Coalition.**
- (D) The Indiana Chapter of the American Academy of Pediatrics.**
- (E) The Indiana State Medical Association.**
- (F) The Indiana State Nurses Association.**
- (G) The Indiana Health Care Association.**
- (H) A local health officer or a rural health organization.**
- (I) A primary health care organization.**
- (J) A senior citizens organization.**
- (K) The Indiana Chapter of the National Medical Association.**
- (L) A consumer or representative of an end of life care organization, an alternative to long term care services, or a disability organization.**
- (M) A psychiatrist licensed under IC 25-22.5 or a psychologist licensed under IC 25-33.**

(c) The term of office of a legislative member of the advisory board is four (4) years. However, a legislative member of the advisory board ceases to be a member of the advisory board if the member:

- (1) is no longer a member of the chamber from which the member was appointed; or**
- (2) is removed from the advisory board under subsection (d).**

(d) A legislative member of the advisory board may be removed at any time by the appointing authority who appointed the legislative member.

(e) The term of office of a member of the advisory board appointed under subsection (b)(4) is four (4) years. However, these members serve at the pleasure of the governor and may be removed for any reason.

(f) If a vacancy exists on the advisory board with respect to a legislative member or the members appointed under subsection (b)(4), the appointing authority who appointed the former member whose position has become vacant shall appoint an individual to fill the vacancy for the balance of the unexpired term.

(g) The governor shall appoint a member of the advisory committee to serve as chairperson.

(h) Eleven (11) members of the advisory board constitute a

quorum for the transaction of business at a meeting of the advisory board. The affirmative vote of at least eleven (11) members of the advisory board is necessary for the advisory board to take action.

(i) Each member of the advisory board who is not a state employee is not entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is, however, entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(j) Each member of the advisory board who is a state employee but who is not a member of the general assembly is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(k) Each member of the advisory board who is a member of the general assembly is entitled to receive the same per diem, mileage, and travel allowances paid to legislative members of interim study committees established by the legislative council. Per diem, mileage, and travel allowances paid under this subsection shall be paid from appropriations made to the legislative council or the legislative services agency.

(l) Payments authorized for members of the advisory board under subsections (i) through (k) are payable from the Indiana tobacco master settlement agreement fund.

(m) The budget agency shall serve as the staff to the advisory committee.

Sec. 6. A public or private entity or an individual may submit an application to the board for a grant from the fund. Each application must be in writing and contain the following information:

- (1) A clear objective to be achieved with the grant.
- (2) A plan for implementation of the specific program.
- (3) A statement of the manner in which the proposed program will further the goals of the Indiana tobacco use prevention and cessation board's mission statement and long range state

plan under IC 4-12-4.

(4) The amount of the grant requested.

(5) An evaluation and assessment component to determine the program's performance.

(6) Any other information required by the advisory board.

The advisory board may adopt written guidelines to establish procedures, forms, additional evaluation criteria, and application deadlines.

Sec. 7. Appropriations and distributions from the fund under this chapter are in addition to and not in place of other appropriations or distributions made for the same purpose.

SECTION 4. IC 4-12-6 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]:

Chapter 6. Biomedical Technology and Basic Research Trust Fund

Sec. 1. As used in this chapter, "fund" refers to the biomedical technology and basic research trust fund established by section 3 of this chapter.

Sec. 2. As used in this chapter, "master settlement agreement" has the meaning set forth in IC 24-3-3-6.

Sec. 3. (a) The biomedical technology and basic research trust fund is established for the purpose of making distributions to the Indiana twenty-first century research and technology fund established by IC 4-4-5.1. The fund consists of:

(1) amounts, if any, that another statute requires to be distributed to the fund from the Indiana tobacco master settlement agreement fund;

(2) grants, gifts, and donations intended for deposit in the fund; and

(3) interest that accrues from money in the fund.

(b) The fund shall be administered by the budget agency. Notwithstanding IC 5-13, the treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as money is invested by the public employees retirement fund under IC 5-10.3-5. The treasurer of state may contract with investment management professionals, investment advisors, and legal counsel to assist in the management of the fund and may pay the state expenses incurred under those

contracts. Money in the fund at the end of the state fiscal year does not revert to the state general fund.

Sec. 4. Subject to appropriation by the general assembly, review by the budget committee, and approval by the budget agency, the treasurer of state shall distribute money from the fund to public and private entities to support biomedical technology and basic research initiatives, giving priority to initiatives that address tobacco related illnesses and that leverage matching dollars from federal or private sources.

Sec. 5. Appropriations and distributions from the fund under this chapter are in addition to and not in place of other appropriations or distributions made for the same purpose.

SECTION 5. IC 4-12-7 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]:

Chapter 7. Indiana Local Health Department Trust Fund

Sec. 1. As used in this chapter, "fund" refers to the Indiana local health department trust fund established by section 4 of this chapter.

Sec. 2. As used in this chapter, "local board of health" means the board of a:

- (1) county health department established under IC 16-20-2;
- (2) multiple county health department established under IC 16-20-3;
- (3) city health department established under IC 16-20-4; or
- (4) health and hospital corporation established under IC 16-22-8.

Sec. 3. As used in this chapter, "master settlement agreement" has the meaning set forth in IC 24-3-3-6.

Sec. 4. (a) The Indiana local health department trust fund is established for the purpose of making distributions to each county to provide funding for services provided by local boards of health in that county. The fund consists of:

- (1) money required to be distributed to the fund under subsection (b);
- (2) additional amounts, if any, that another statute requires to be distributed to the fund from the Indiana tobacco master settlement agreement fund;
- (3) appropriations to the fund from other sources;

(4) grants, gifts, and donations intended for deposit in the fund; and

(5) interest that accrues from money in the fund.

(b) Three million dollars (\$3,000,000) of the money received by the state under the master settlement agreement during each calendar year beginning on or after January 1, 2001, shall be distributed to the fund from the Indiana tobacco master settlement agreement fund.

(c) The fund shall be administered by the budget agency. Notwithstanding IC 5-13, the treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as money is invested by the public employees retirement fund under IC 5-10.3-5. The treasurer of state may contract with investment management professionals, investment advisors, and legal counsel to assist in the management of the fund and may pay the state expenses incurred under those contracts. Money in the fund at the end of the state fiscal year does not revert to the state general fund.

Sec. 5. (a) Subject to subsection (b) and subject to review by the budget committee and approval by the budget agency, on July 1 of each year the treasurer of state shall distribute money from the fund to each county in the amount determined under STEP FOUR of the following formula:

STEP ONE: Determine the amount of money, if any, available for distribution from the fund.

STEP TWO: Subtract nine hundred twenty thousand dollars (\$920,000) from the amount determined under STEP ONE.

STEP THREE: Multiply the STEP TWO remainder by a fraction. The numerator of the fraction is the population of the county. The denominator of the fraction is the population of the state.

STEP FOUR: Add ten thousand dollars (\$10,000) to the STEP THREE product.

(b) If less than nine hundred twenty thousand dollars (\$920,000) is available for distribution from the fund on July 1 of any year, the amount of the distribution from the fund to each county is determined under STEP TWO of the following formula.

STEP ONE: Determine the amount of money, if any, available for distribution from the fund.

STEP TWO: Multiply the STEP ONE amount by a fraction.

The numerator of the fraction is the population of the county.

The denominator of the fraction is the population of the state.

Sec. 6. If only one (1) local board of health exists in a county, the county fiscal body shall appropriate all distributions received by the county under this chapter to that local board of health. If more than one (1) local board of health exists in a county, the county fiscal body shall appropriate all distributions received by the county under this chapter to those local boards of health in amounts determined by the county fiscal body.

Sec. 7. In using money distributed under this chapter, a local board of health shall give priority to:

- (1) programs that share common goals with the mission statement and long range state plan established by the Indiana tobacco use prevention and cessation board;**
- (2) preventive health measures; and**
- (3) support for community health centers that treat low income persons and senior citizens.**

Sec. 8. Appropriations and distributions from the fund under this chapter are in addition to and not in place of other appropriations or distributions made for the same purpose.

Sec. 9. Money in the fund is annually appropriated for the purposes described in this chapter.

SECTION 6. IC 4-12-8 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 8. Indiana Prescription Drug Fund

Sec. 1. As used in this chapter, "fund" refers to the Indiana prescription drug fund established by section 2 of this chapter.

Sec. 2. (a) The Indiana prescription drug fund is established for the purpose of providing access to needed prescription drugs to ensure the health and welfare of Indiana's low-income senior citizens. The fund consists of:

- (1) amounts to be distributed to the fund from the Indiana tobacco master settlement agreement fund;**
- (2) appropriations to the fund from other sources;**
- (3) grants, gifts, and donations intended for deposit in the fund; and**
- (4) interest that accrues from money in the fund.**

(b) The fund shall be administered by the budget agency. Expenses for administration and benefits under the Indiana prescription drug program established under IC 12-10-16 shall be paid from the fund. Notwithstanding IC 5-13, the treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as money is invested by the public employees retirement fund under IC 5-10.3-5. The treasurer of state may contract with investment management professionals, investment advisors, and legal counsel to assist in the management of the fund and may pay the state expenses incurred under those contracts. Money in the fund at the end of the state fiscal year does not revert to the state general fund.

Sec. 3. Appropriations and distributions from the fund under this chapter are in addition to and not in place of other appropriations or distributions made for the same purpose.

SECTION 7. IC 4-12-9 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]:

Chapter 9. Tobacco Farmers and Rural Community Impact Fund

Sec. 1. As used in this chapter, “fund” refers to the tobacco farmers and rural community impact fund established by section 2 of this chapter.

Sec. 2. (a) The tobacco farmers and rural community impact fund is established. The fund shall be administered by the commissioner of agriculture and the department of commerce. The fund consists of:

- (1) amounts, if any, that another statute requires to be distributed to the fund from the Indiana tobacco master settlement agreement fund;**
- (2) appropriations to the fund from other sources;**
- (3) grants, gifts, and donations intended for deposit in the fund; and**
- (4) interest that accrues from money in the fund.**

(b) The expenses of administering the fund shall be paid from money in the fund.

(c) Notwithstanding IC 5-13, the treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as money is invested by the public

employees retirement fund under IC 5-10.3-5. The treasurer of state may contract with investment management professionals, investment advisors, and legal counsel to assist in the management of the fund and may pay the state expenses incurred under those contracts.

(d) Money in the fund at the end of the state fiscal year does not revert to the state general fund.

Sec. 3. (a) Subject to subsection (b), money in the fund shall be used for the following purposes:

(1) To assist farmers who produced tobacco to successfully transition to alternative, economically viable commodities.

(2) To preserve and sustain Indiana family farms and farmland.

(3) To develop new agricultural enterprises in areas that were used for tobacco production, including facilities for research and development, new market opportunities, educational programs, and leadership developmental programs.

(4) Assistance to rural communities that suffer a negative economic impact from the loss of tobacco production, including assistance to the Indiana Rural Development Council.

(b) Expenditures from the fund are subject to appropriation by the general assembly, review by the budget committee, and approval by the budget agency. In addition, the commissioner of agriculture shall approve expenditures for projects under subsection (a)(1) through (a)(3), and the department of commerce shall approve expenditures for projects under subsection (a)(4).

SECTION 8. IC 12-10-16 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE SEPTEMBER 1, 2000]:

Chapter 16. Indiana Prescription Drug Program

Sec. 1. "Fund" refers to the Indiana prescription drug fund established under IC 4-12-8.

Sec. 2. "Program" refers to the Indiana prescription drug program established under section 3 of this chapter.

Sec. 3. The office of the secretary shall administer a program implementing the recommendations of the prescription drug advisory committee to provide access to needed pharmaceuticals to ensure the health and welfare of Indiana's low-income senior

citizens.

Sec. 4. The office of the secretary shall report to the budget committee on the recommendations made by the prescription drug advisory committee.

Sec. 5. (a) The office may adopt rules under IC 4-22-2 to implement the program.

(b) The office may adopt emergency rules under IC 4-22-2-37.1 to implement the program on an emergency basis.

Sec. 6. The administrative expenses and benefit costs of the program shall be paid from the fund.

SECTION 9. IC 24-3-2-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. **(a)** In establishing the cost of cigarettes to the retailer or distributor, the invoice cost of said cigarettes purchased at a forced, bankrupt, or close-out sale, or other sale outside of the ordinary channels of trade, may not be used as a basis for justifying a price lower than one based upon the replacement cost of the cigarettes to the retailer or distributor, within thirty (30) days prior to the date of sale, in the quantity last purchased, through the ordinary channels of trade.

(b) Any cigarettes that are imported or reimported into the United States for sale or distribution under a trade name, trade dress, or trademark that is the same as or confusingly similar to a trade name, trade dress, or trademark used for cigarettes manufactured in the United States for sale or distribution in the United States are presumed to be purchased outside the ordinary channels of trade.

SECTION 10. IC 24-3-4 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 4. Cigarettes Produced for Export; Imported Cigarettes

Sec. 1. This chapter does not apply to cigarettes sold or intended to be sold as duty free merchandise by a duty free sales enterprise that complies with federal requirements, including the requirements under 19 U.S.C. 1555(b). However, this chapter applies to cigarettes that are brought back into the United States that have not been assessed a federal tax or federal duty.

Sec. 2. As used in this chapter, "cigarette" has the meaning set

forth in IC 24-3-2-2(a).

Sec. 3. As used in this chapter, "department" refers to the department of state revenue.

Sec. 4. As used in this chapter, "importer" means any of the following:

- (1) A person in the United States to whom nontaxpaid tobacco products, cigarette papers, or cigarette tubes manufactured in a foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States are shipped or consigned.
- (2) A person who removes cigars or cigarettes for sale or consumption in the United States from a customs bonded manufacturing warehouse.
- (3) A person who smuggles or unlawfully brings tobacco products, cigarette papers, or cigarette tubes into the United States.

Sec. 5. As used in this chapter, "law enforcement officer" has the meaning set forth in IC 35-41-1-17.

Sec. 6. As used in this chapter, "manufacturer" means a person who manufactures a product made from tobacco that is made for smoking or chewing, including snuff. However, the term does not include the following:

- (1) A person who produces a product made from tobacco that is made for smoking or chewing, including snuff, solely for the person's own personal consumption or use.
- (2) A proprietor of a customs bonded manufacturing warehouse with respect to the operation of the warehouse.

Sec. 7. As used in this chapter, "person" has the meaning set forth in IC 24-3-2-2(b).

Sec. 8. As of October 1, 2000, a person may not sell, distribute, or transport into Indiana any of the following cigarettes:

- (1) Cigarettes that have been marked for sale, distribution, or use outside the United States, including labels stating "For Export Only", "U.S. Tax-Exempt", and "For Use Outside U.S."
- (2) Cigarettes that do not comply with the federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333) or with other federal requirements regarding health warnings and other information on cigarette packages manufactured, packaged, or imported for sale, distribution, or use in the United States.

(3) Cigarettes that do not comply with federal trademark and copyright laws.

(4) Cigarettes that violate federal requirements on importation of previously exported tobacco products, including 26 U.S.C. 5754.

(5) Cigarettes that the person knows or has reason to know that the manufacturer did not intend to be sold, distributed, or used in the United States.

(6) Cigarettes that have not had the list of the cigarette's added ingredients submitted to the Secretary of the Department of Health and Human Services under 15 U.S.C. 1335a.

(7) Cigarettes that have had the package altered before the cigarettes are sold or distributed to the consumer that remove, conceal, or obscure any of the following:

(A) A marking that indicates the cigarettes are intended to be sold, distributed, or used outside the United States.

(B) A health warning or other information required under 15 U.S.C. 1333.

Sec. 9. A person may not affix a stamp (as defined by IC 6-7-1-9) on a package of cigarettes described in section 8 of this chapter.

Sec. 10. (a) A person who, for the purpose of selling or distributing the cigarettes in Indiana, imports cigarettes into Indiana that were manufactured outside the United States, shall file a monthly report with the department and keep and maintain the records required under IC 6-7-1-19 and IC 6-7-1-19.5.

(b) The report required under subsection (a) must be signed by the person who imports the cigarettes, under penalties of perjury, and must contain the following information concerning cigarettes that the person imported during the preceding month:

(1) A copy of each of the following:

(A) The permit issued under 26 U.S.C. 5713 that allows the person to import the cigarettes into the United States.

(B) The United States Customs Service form concerning the cigarettes that contains the internal revenue tax information required by the federal Bureau of Alcohol, Tobacco, and Firearms.

(2) A statement that includes the following information:

(A) The brand and brand styles of the cigarettes imported.

(B) The quantity of each brand style of the cigarettes imported.

(C) The name and address of each person to whom the cigarettes have been shipped.

(3) A statement signed by an officer of the manufacturer or importer, under the penalties for perjury, that states whether the manufacturer is a participant in the escrow fund under IC 24-3-3-12 and certifies that the manufacturer or importer has complied with the following:

(A) The federal cigarette package health warning requirements (15 U.S.C. 1333) and the federal ingredient reporting requirements (15 U.S.C. 1335a).

(B) The qualified escrow fund for tobacco product manufacturers requirements under IC 24-3-3.

Sec. 11. The department may do the following:

(1) Adopt rules under IC 4-22-2 to implement this chapter.

(2) Assess tax due, penalties, and interest on cigarettes in violation of this chapter.

(3) Revoke or suspend the registration certificate issued under IC 6-7-1-16 of a person who violates this chapter.

Sec. 12. (a) If the department or a law enforcement officer discovers cigarettes that are in violation of section 8 or 9 of this chapter, the department or a law enforcement officer may seize and take possession of the cigarettes together with any vending machine or receptacle in which the cigarettes are held for sale. The seized cigarettes, vending machine, or receptacle, not including money contained in the vending machine or receptacle, shall be forfeited to the state. The department or law enforcement agency shall, within a reasonable time after the seizure, destroy the confiscated cigarettes and vending machine or receptacle.

(b) The confiscation, destruction, sale, or redemption of cigarettes does not relieve a person of any penalties imposed for violation of this chapter.

(c) When the department has reason to believe that any cigarettes are being kept, sold, offered for sale, or given away in violation of this chapter, an officer of the department or a law enforcement officer may make an affidavit for a search warrant under IC 35-33-5. If the judge issues a search warrant under IC 35-33-1, a law enforcement officer or an authorized agent of the

department may search any place or vehicle designated in the affidavit and search warrant and seize any cigarettes.

Sec. 13. (a) This chapter may be enforced by the department or a law enforcement officer.

(b) Upon referral of a violation of this chapter by the department or a law enforcement officer, the prosecuting attorney or the attorney general shall prosecute the person who violates this chapter.

Sec. 14. In addition to any other remedy, any person may bring an action for appropriate injunctive or equitable relief for a violation of this chapter that caused actual damages to the person. The person who brings the action may recover actual damages, interest on the damages from the date the complaint was filed, costs, and reasonable attorney's fees. If the court finds that the violation was flagrant, the court may increase the recovery to an amount not exceeding three (3) times the amount of actual damages.

Sec. 15. A person who knowingly or intentionally sells, distributes, or transports into Indiana cigarettes in violation of section 8 of this chapter commits a Class A misdemeanor.

Sec. 16. A person who knowingly or intentionally sells, or distributes cigarettes that bear Indiana tax stamps affixed in violation of this chapter commits a Class A misdemeanor.

Sec. 17. A person who:

- (1)** knowingly sells, distributes, or transports more than twelve thousand (12,000) cigarettes in violation of section 8 or 9 of this chapter; and
- (2)** has previously been convicted of an offense under section 8 or 9 of this chapter;

commits a Class D felony.

SECTION 11. IC 24-5-0.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The following acts or representations as to the subject matter of a consumer transaction, made either orally or in writing by a supplier, are deceptive acts:

- (1) That such subject of a consumer transaction has sponsorship, approval, performance, characteristics, accessories, uses, or benefits it does not have which the supplier knows or should reasonably know it does not have.

- (2) That such subject of a consumer transaction is of a particular standard, quality, grade, style, or model, if it is not and if the supplier knows or should reasonably know that it is not.
- (3) That such subject of a consumer transaction is new or unused, if it is not and if the supplier knows or should reasonably know that it is not.
- (4) That such subject of a consumer transaction will be supplied to the public in greater quantity than the supplier intends or reasonably expects.
- (5) That replacement or repair constituting the subject of a consumer transaction is needed, if it is not and if the supplier knows or should reasonably know that it is not.
- (6) That a specific price advantage exists as to such subject of a consumer transaction, if it does not and if the supplier knows or should reasonably know that it does not.
- (7) That the supplier has a sponsorship, approval, or affiliation in such consumer transaction he does not have, and which the supplier knows or should reasonably know that he does not have.
- (8) That such consumer transaction involves or does not involve a warranty, a disclaimer of warranties, or other rights, remedies, or obligations, if the representation is false and if the supplier knows or should reasonably know that the representation is false.
- (9) That the consumer will receive a rebate, discount, or other benefit as an inducement for entering into a sale or lease in return for giving the supplier the names of prospective consumers or otherwise helping the supplier to enter into other consumer transactions, if earning the benefit, rebate, or discount is contingent upon the occurrence of an event subsequent to the time the consumer agrees to the purchase or lease.
- (10) That the supplier is able to deliver or complete the subject of the consumer transaction within a stated period of time, when the supplier knows or should reasonably know he could not. If no time period has been stated by the supplier, there is a presumption that the supplier has represented that he will deliver or complete the subject of the consumer transaction within a reasonable time, according to the course of dealing or the usage of the trade.
- (11) That the consumer will be able to purchase the subject of the consumer transaction as advertised by the supplier, if the supplier

does not intend to sell it.

(12) That the replacement or repair constituting the subject of a consumer transaction can be made by the supplier for the estimate the supplier gives a customer for the replacement or repair, if the specified work is completed and:

- (A) the cost exceeds the estimate by an amount equal to or greater than ten percent (10%) of the estimate;
- (B) the supplier did not obtain written permission from the customer to authorize the supplier to complete the work even if the cost would exceed the amounts specified in clause (A);
- (C) the total cost for services and parts for a single transaction is more than seven hundred fifty dollars (\$750); and
- (D) the supplier knew or reasonably should have known that the cost would exceed the estimate in the amounts specified in clause (A).

(13) That the replacement or repair constituting the subject of a consumer transaction is needed, and that the supplier disposes of the part repaired or replaced earlier than seventy-two (72) hours after both:

- (A) the customer has been notified that the work has been completed; and
- (B) the part repaired or replaced has been made available for examination upon the request of the customer.

(14) Engaging in the replacement or repair of the subject of a consumer transaction if the consumer has not authorized the replacement or repair, and if the supplier knows or should reasonably know that it is not authorized.

(15) The act of misrepresenting the geographic location of the supplier by listing a fictitious business name or an assumed business name (as described in IC 23-15-1) in a local telephone directory if:

- (A) the name misrepresents the supplier's geographic location;
- (B) the listing fails to identify the locality and state of the supplier's business;
- (C) calls to the local telephone number are routinely forwarded or otherwise transferred to a supplier's business location that is outside the calling area covered by the local telephone directory; and

(D) the supplier's business location is located in a county that is not contiguous to a county in the calling area covered by the local telephone directory.

(16) The act of listing a fictitious business name or assumed business name (as described in IC 23-15-1) in a directory assistance database if:

(A) the name misrepresents the supplier's geographic location;

(B) calls to the local telephone number are routinely forwarded or otherwise transferred to a supplier's business location that is outside the local calling area; and

(C) the supplier's business location is located in a county that is not contiguous to a county in the local calling area.

(17) That the supplier violated IC 24-3-4 concerning cigarettes for import or export.

(b) Any representations on or within a product or its packaging or in advertising or promotional materials which would constitute a deceptive act shall be the deceptive act both of the supplier who places such representation thereon or therein, or who authored such materials, and such other suppliers who shall state orally or in writing that such representation is true if such other supplier shall know or have reason to know that such representation was false.

(c) If a supplier shows by a preponderance of the evidence that an act resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adopted to avoid the error, such act shall not be deceptive within the meaning of this chapter.

(d) It shall be a defense to any action brought under this chapter that the representation constituting an alleged deceptive act was one made in good faith by the supplier without knowledge of its falsity and in reliance upon the oral or written representations of the manufacturer, the person from whom the supplier acquired the product, any testing organization, or any other person provided that the source thereof is disclosed to the consumer.

(e) For purposes of subsection (a)(12), a supplier that provides estimates before performing repair or replacement work for a customer shall give the customer a written estimate itemizing as closely as possible the price for labor and parts necessary for the specific job before commencing the work.

(f) For purposes of subsection (a)(15), a telephone company or other

provider of a telephone directory or directory assistance service or its officer or agent is immune from liability for publishing the listing of a fictitious business name or assumed business name of a supplier in its directory or directory assistance database unless the telephone company or other provider of a telephone directory or directory assistance service is the same person as the supplier who has committed the deceptive act.

SECTION 12. [EFFECTIVE JULY 1, 2000] (a) All money remaining in the tobacco settlement fund on June 30, 2000, shall be transferred to the Indiana tobacco master settlement agreement fund established by IC 4-12-1-14.3, as amended by this act, on July 1, 2000.

(b) Notwithstanding P.L.273-1999 or IC 4-12-1-14.3, as amended by this act, the appropriations made by P.L.273-1999, SECTION 8, for the state fiscal year beginning July 1, 2000, for CHILDREN'S HEALTH INSURANCE PROGRAM (CHIP) ASSISTANCE and CHILDREN'S HEALTH INSURANCE PROGRAM (CHIP) ADMINISTRATION:

(1) are payable from the Indiana tobacco master settlement agreement fund established by IC 4-12-1-14.3, as amended by this act; and

(2) are not subject to the limitation on expenditures from the fund under IC 4-12-1-14.3(d), as amended by this act.

(c) The following amounts are appropriated from the Indiana tobacco master settlement agreement fund established by IC 4-12-1-14.3, as amended by this act, for the period beginning July 1, 2000, and ending June 30, 2001:

(1) Thirty-five million dollars (\$35,000,000) to be transferred to the Indiana tobacco use prevention and cessation fund for tobacco education, prevention, and use control. However, two million five hundred thousand dollars (\$2,500,000) of this amount must be used to fund minority organizations, agencies, and businesses to implement minority prevention and intervention programs.

(2) Twenty million dollars (\$20,000,000) to be transferred to the Indiana prescription drug fund for pharmaceutical assistance for low income senior citizens.

(3) Fifteen million dollars (\$15,000,000) to the state department of health for total operating expenses for either or

both of the following purposes:

(A) Community health centers.

(B) Primary health care centers for children.

(d) Ten million dollars (\$10,000,000) is appropriated from the Indiana tobacco master settlement agreement fund established by IC 4-12-1-14.3, as amended by this act, to the state department of health to cover capital costs for the period beginning July 1, 2000, and ending June 30, 2002, for community health centers.

(e) In addition to the money appropriated under IC 6-7-1-30.5 and under P.L.273-1999, SECTION 8, one million five hundred thousand dollars (\$1,500,000) shall be transferred from the Indiana tobacco master settlement agreement fund established by IC 4-12-1-14.3, as amended by this act, to the local health maintenance fund established by IC 16-46-10-1 and is appropriated for total operating expenses of the local health maintenance fund beginning July 1, 2000, and ending June 30, 2001. The appropriation made under this subsection shall be used to make supplemental grants, in addition to the grants provided under IC 16-46-10-2, under the following schedule to each local board of health whose application for funding is approved by the state board of health:

COUNTY POPULATION	AMOUNT OF GRANT
over - 499,999	\$ 36,000
100,000 - 499,999	24,000
50,000 - 99,999	20,000
under - 50,000	14,000

SECTION 13. [EFFECTIVE JULY 1, 2000] (a) The Indiana University School of Medicine shall submit proposed criteria and cost estimates to the Indiana health care trust fund advisory board concerning the establishment and funding of a research project to determine the causes and tendencies of nicotine addiction and withdrawal from nicotine addiction.

(b) The Indiana minority health coalition and Martin University shall submit proposed criteria and cost estimates to the Indiana health care trust fund advisory board concerning the establishment and funding of a minority epidemiology resource center.

(c) This SECTION expires July 1, 2003.

SECTION 14. [EFFECTIVE APRIL 1, 2000] (a) Notwithstanding IC 4-12-4-7, as added by this act, the initial terms of office of the

eleven (11) members appointed by the governor to the board of directors of the Indiana tobacco use prevention and cessation board under IC 4-12-4-4(c)(2), as added by this act, are as follows:

- (1) Three (3) members for a term of two (2) years.
- (2) Four (4) members for a term of three (3) years.
- (3) Four (4) members for a term of four (4) years.

(b) The initial terms begin April 1, 2000.

(c) This SECTION expires July 1, 2005.

SECTION 15. [EFFECTIVE UPON PASSAGE] (a) The Indiana prescription drug advisory committee is established to:

- (1) study pharmacy benefit programs and proposals, including programs and proposals in other states; and
- (2) make initial and ongoing recommendations to the governor for programs that address the pharmaceutical costs of low-income senior citizens.

(b) The committee consists of eleven (11) members appointed by the governor and four (4) legislative members. The term of each member expires December 31, 2001. The members of the committee appointed by the governor are as follows:

- (1) A physician with a specialty in geriatrics.
- (2) A pharmacist.
- (3) A person with expertise in health plan administration.
- (4) A representative of an area agency on aging.
- (5) A consumer representative from a senior citizen advocacy organization.
- (6) A person with expertise in and knowledge of the federal Medicare program.
- (7) A health care economist.
- (8) A person representing a pharmaceutical research and manufacturing association.
- (9) Three (3) other members as appointed by the governor.

The four (4) legislative members shall serve as nonvoting members. The speaker of the house of representatives and the president pro tempore of the senate shall each appoint two (2) legislative members, who may not be from the same political party, to serve on the committee.

(c) The governor shall designate a member to serve as chairperson. A vacancy with respect to a member shall be filled in the same manner as the original appointment. Each member is

entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties. The expenses of the committee shall be paid from the Indiana pharmaceutical assistance fund created by IC 4-12-8, as added by this act. The office of the secretary of family and social services shall provide staff for the committee. The committee is a public agency for purposes of IC 5-14-1.5 and IC 5-14-3. The advisory council is a governing body for purposes of IC 5-14-1.5.

(d) Not later than September 1, 2000, the board shall make program design recommendations to the governor and the family and social services administration concerning the following:

- (1) Eligibility criteria, including the desirability of incorporating an income factor based on the federal poverty level.
- (2) Benefit structure.
- (3) Cost-sharing requirements, including whether the program should include a requirement for copayments or premium payments.
- (4) Marketing and outreach strategies.
- (5) Administrative structure and delivery systems.
- (6) Evaluation.

(e) The recommendations shall address the following:

- (1) Cost-effectiveness of program design.
- (2) Coordination with existing pharmaceutical assistance programs.
- (3) Strategies to minimize crowd-out of private insurance.
- (4) Reasonable balance between maximum eligibility levels and maximum benefit levels.
- (5) Feasibility of a health care subsidy program where the amount of the subsidy is based on income.
- (6) Advisability of entering into contracts with health insurance companies to administer the program.

(f) The committee may not recommend the use of funds from the Indiana pharmaceutical assistance fund for a state prescription drug benefit for low-income senior citizens if there is a federal statute or program providing a similar prescription drug benefit for the benefit of low-income senior citizens.

(g) This SECTION expires December 31, 2001.

SECTION 16. An emergency is declared for this act.

P.L.22-2000

[H.1180. Approved March 14, 2000.]

AN ACT to amend the Indiana Code concerning state and local administration.

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

SECTION 1. IC 4-20.5-21 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]:

Chapter 21. Displays on Public Property

Sec. 1. This chapter governs the display of objects on real property owned by the state.

Sec. 2. An object containing the words of the Ten Commandments may be displayed on real property owned by the state along with other documents of historical significance that have formed and influenced the United States legal or governmental system. Such display of an object containing the words of the Ten Commandments shall be in the same manner and appearance generally as other documents and objects displayed, and shall not be presented or displayed in any fashion that results in calling attention to it apart from the other displayed documents and objects.

SECTION 2. IC 36-1-16 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]:

Chapter 16. Displays on Public Property

Sec. 1. This chapter governs the display of objects on real property owned by a political subdivision.

Sec. 2. An object containing the words of the Ten Commandments may be displayed on real property owned by a political subdivision along with other documents of historical significance that have formed and influenced the United States legal or governmental system. Such display of an object containing the words of the Ten Commandments shall be in the same manner

and appearance generally as other documents and objects displayed, and shall not be presented or displayed in any fashion that results in calling attention to it apart from the other displayed documents and objects.

P.L.23-2000

[H.1010. Approved March 15, 2000.]

AN ACT to amend the Indiana Code concerning financial institutions.

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

SECTION 1. IC 24-4.5-1-102 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 102. Purposes; Rules of Construction—(1) This article shall be liberally construed and applied to promote its underlying purposes and policies.

(2) The underlying purposes and policies of this article are:

- (a) to simplify, clarify, and modernize the law governing retail installment sales, consumer credit, small loans, and usury;
- (b) to provide rate ceilings to assure an adequate supply of credit to consumers;
- (c) to further consumer understanding of the terms of credit transactions and to foster competition among suppliers of consumer credit so that consumers may obtain credit at reasonable cost;
- (d) to protect consumer buyers, lessees, and borrowers against unfair practices by some suppliers of consumer credit, having due regard for the interests of legitimate and scrupulous creditors;
- (e) to permit and encourage the development of fair and economically sound consumer credit practices;
- (f) to conform the regulation of consumer credit transactions to the policies of the Federal Consumer Credit Protection Act; and
- (g) to make uniform the law including administrative rules among the various jurisdictions.

(3) A reference to a requirement imposed by this article includes reference to a related rule of the department adopted pursuant to this article.

(4) A reference to a federal law in IC 24-4.5 is a reference to the law in effect December 31, ~~1997~~ **1999**.

SECTION 2. IC 24-4.5-1-301 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 301. General Definitions—In addition to definitions appearing in subsequent chapters in this article:

(1) "Agreement" means the bargain of the parties in fact as found in their language or by implication from other circumstances, including course of dealing or usage of trade or course of performance.

(2) "Agricultural purpose" means a purpose related to the production, harvest, exhibition, marketing, transportation, processing, or manufacture of agricultural products by a natural person who cultivates, plants, propagates, or nurtures the agricultural products; "Agricultural products" includes agricultural, horticultural, viticultural, and dairy products, livestock, wildlife, poultry, bees, forest products, fish and shellfish, and any and all products raised or produced on farms and any processed or manufactured products thereof.

(3) "Average daily balance" means the sum of each of the daily balances in a billing cycle divided by the number of days in the billing cycle, and if the billing cycle is a month, the creditor may elect to treat the number of days in each billing cycle as thirty (30).

(4) "Closing costs" with respect to a debt secured by an interest in land includes:

- (a) fees or premiums for title examination, title insurance, or similar purposes, including surveys;
- (b) fees for preparation of a deed, settlement statement, or other documents;
- (c) escrows for future payments of taxes and insurance;
- (d) fees for notarizing deeds and other documents;
- (e) appraisal fees; and
- (f) credit reports.

(5) "Conspicuous": A term or clause is conspicuous when it is so written that a reasonable person against whom it is to operate ought to have noticed it.

(6) "Consumer credit" means credit offered or extended to a

consumer primarily for a personal, family, or household purpose.

(7) "Credit" means the right granted by a creditor to a debtor to defer payment of debt or to incur debt and defer its payment.

(8) "Creditor" means a person:

(a) who regularly engages in the extension of consumer credit that is subject to a credit service charge or loan finance charge, as applicable, or is payable in installments; and

(b) to whom the obligation is initially payable, either on the face of the note or contract, or by agreement when there is not a note or contract.

(9) "Earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise, and includes periodic payments under a pension or retirement program.

(10) "Lender credit card or similar arrangement" means an arrangement or loan agreement, other than a seller credit card, pursuant to which a lender gives a debtor the privilege of using a credit card, letter of credit, or other credit confirmation or identification in transactions out of which debt arises:

(a) by the lender's honoring a draft or similar order for the payment of money drawn or accepted by the debtor;

(b) by the lender's payment or agreement to pay the debtor's obligations; or

(c) by the lender's purchase from the obligee of the debtor's obligations.

(11) "Official fees" means:

(a) fees and charges prescribed by law which actually are or will be paid to public officials for determining the existence of or for perfecting, releasing, or satisfying a security interest related to a consumer credit sale, consumer lease, or consumer loan; or

(b) premiums payable for insurance in lieu of perfecting a security interest otherwise required by the creditor in connection with the sale, lease, or loan, if the premium does not exceed the fees and charges described in paragraph (a) which would otherwise be payable.

(12) "Organization" means a corporation, government or governmental subdivision or agency, trust, estate, partnership, limited liability company, cooperative, or association.

(13) "Payable in installments" means that payment is required or permitted by written agreement to be made in more than four (4) installments not including a down payment.

(14) "Person" includes a natural person or an individual, and an organization.

(15) "Person related to" with respect to an individual means:

- (a) the spouse of the individual;
- (b) a brother, brother-in-law, sister, sister-in-law of the individual;
- (c) an ancestor or lineal descendants of the individual or the individual's spouse; and
- (d) any other relative, by blood or marriage, of the individual or the individual's spouse who shares the same home with the individual.

"Person related to" with respect to an organization means:

- (a) a person directly or indirectly controlling, controlled by, or under common control with the organization;
- (b) an officer or director of the organization or a person performing similar functions with respect to the organization or to a person related to the organization;
- (c) the spouse of a person related to the organization; and
- (d) a relative by blood or marriage of a person related to the organization who shares the same home with him.

(16) "Presumed" or "presumption" means that the trier of fact must find the existence of the fact presumed unless and until evidence is introduced which would support a finding of its nonexistence.

(17) "Mortgage transaction" means a transaction in which a first mortgage or a land contract which constitutes a first lien is created or retained against land.

(18) "Regularly engaged" means a person who extends consumer credit more than:

- (a) twenty-five (25) times; or
- (b) five (5) times for transactions secured by a dwelling;

in the preceding calendar year. If a person did not meet these numerical standards in the preceding calendar year, the numerical standards shall be applied to the current calendar year.

(19) "Seller credit card" means an arrangement which gives to a buyer or lessee the privilege of using a credit card, letter of credit, or other credit confirmation or identification for the purpose of purchasing

or leasing goods or services from that person, a person related to that person, or from that person and any other person. The term includes a card that is issued by a person, that is in the name of the seller, and that can be used by the buyer or lessee only for purchases or leases at locations of the named seller.

(20) "Supervised financial organization" means a person, other than an insurance company or other organization primarily engaged in an insurance business:

- (a) organized, chartered, or holding an authorization certificate under the laws of a state or of the United States which authorizes the person to make loans and to receive deposits, including a savings, share, certificate, or deposit account; and
- (b) subject to supervision by an official or agency of a state or of the United States.

(21) "Mortgage servicer" means the last person to whom a mortgagor or the mortgagor's successor in interest has been instructed by a mortgagee to send payments on a loan secured by a mortgage.

SECTION 3. IC 24-4.5-2-104 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 104. (1) Except as provided in subsection (2), "consumer credit sale" is a sale of goods, services, or an interest in land in which:

- (a) credit is granted by a person who regularly engages as a seller in credit transactions of the same kind;
- (b) the buyer is a person other than an organization;
- (c) the goods, services, or interest in land are purchased primarily for a personal, family, or household purpose;
- (d) either the debt is payable in installments or a credit service charge is made; and
- (e) with respect to a sale of goods or services, either the amount financed does not exceed fifty thousand dollars (\$50,000) or the debt is secured by personal property used or expected to be used as the principal dwelling of the buyer.

(2) Unless the sale is made subject to this article by agreement (IC 24-4.5-2-601), "consumer credit sale" does not include:

- (a) a sale in which the seller allows the buyer to purchase goods or services pursuant to a lender credit card or similar arrangement; or

(b) except as provided with respect to disclosure (IC 24-4.5-2-301), debtors' remedies (IC 24-4.5-5-201), **providing payoff amounts (IC 24-4.5-2-209)**, and powers and functions of the department (IC 24-4.5-6-101), a sale of an interest in land which is a mortgage transaction (as defined in IC 24-4.5-1-301(17)).

SECTION 4. IC 24-4.5-3-105 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 105. Unless the loan is made subject to IC 24-4.5-3 by agreement (IC 24-4.5-3-601), and except with respect to disclosure (IC 24-4.5-3-301), debtors' remedies (IC 24-4.5-5-201), **providing payoff amounts (IC 24-4.5-3-209)**, and powers and functions of the department (IC 24-4.5-6-101), "consumer loan" does not include a loan primarily secured by an interest in land which is a mortgage transaction (as defined in IC 24-4.5-1-301(17)).

SECTION 5. IC 24-4.5-2-209 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 209. Right to Prepay -
(1) Subject to the provisions on rebate upon prepayment (IC 24-4.5-2-210), the buyer may prepay in full the unpaid balance of a consumer credit sale, refinancing, or consolidation at any time without penalty.

(2) **At the time of prepayment of a credit sale not subject to the provisions of rebate upon prepayment (IC 24-4.5-2-210), the total credit service charge, including the prepaid credit service charge but excluding the loan origination fee allowed under IC 24-4.5-3-201, may not exceed the maximum charge allowed under this chapter for the period the credit sale was in effect.**

(3) **The creditor or mortgage servicer shall provide an accurate payoff of the consumer credit sale to the debtor within ten (10) calendar days after the creditor or mortgage servicer receives the debtor's written request for the accurate consumer credit sale payoff amount. A creditor or mortgage servicer who fails to provide the accurate consumer credit sale payoff amount is liable for:**

(A) **one hundred dollars (\$100) if an accurate consumer credit sale payoff amount is not provided by the creditor or mortgage servicer within ten (10) calendar days after the creditor or mortgage servicer receives the debtor's first written request; and**

(B) the greater of:

(i) one hundred dollars (\$100); or

(ii) the credit service charge that accrues on the sale from the date the creditor or mortgage servicer receives the first written request until the date on which the accurate consumer credit sale payoff amount is provided;

if an accurate consumer credit sale payoff amount is not provided by the creditor or mortgage servicer within ten (10) calendar days after the creditor or mortgage servicer receives the debtor's second written request, and the creditor or mortgage servicer failed to comply with clause (A).

A liability under this subsection is an excess charge under IC 24-4.5-5-202.

SECTION 6. IC 24-4.5-3-209 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 209. Right to Prepay -

(1) Subject to the provisions on rebate upon prepayment (IC 24-4.5-3-210), the debtor may prepay in full the unpaid balance of a consumer loan, refinancing, or consolidation at any time without penalty. With respect to a consumer loan that is primarily secured by an interest in land, a lender may contract for a penalty for prepayment of the loan in full, not to exceed two percent (2%) of the net unpaid balance after deducting all refunds and rebates as of the date of the prepayment. However, the penalty may not be imposed:

~~(1)~~ **(a)** if the loan is refinanced or consolidated with the same creditor;

~~(2)~~ **(b)** for prepayment by proceeds of any insurance or acceleration after default; or

~~(3)~~ **(c)** after three (3) years from the contract date.

(2) At the time of prepayment of a consumer loan not subject to the provisions of rebate upon prepayment (IC 24-4.5-3-210), the total finance charge, including the prepaid finance charge but excluding the loan origination fee allowed under IC 24-4.5-3-201, may not exceed the maximum charge allowed under this chapter for the period the loan was in effect.

(3) The creditor or mortgage servicer shall provide an accurate payoff of the consumer loan to the debtor within ten (10) calendar

days after the creditor or mortgage servicer receives the debtor's written request for the accurate consumer loan payoff amount. A creditor or mortgage servicer who fails to provide the accurate consumer loan payoff amount is liable for:

(A) one hundred dollars (\$100) if an accurate consumer loan payoff amount is not provided by the creditor or mortgage servicer within ten (10) calendar days after the creditor or mortgage servicer receives the debtor's first written request; and

(B) the greater of:

(i) one hundred dollars (\$100); or

(ii) the loan finance charge that accrues on the loan from the date the creditor or mortgage servicer receives the first written request until the date on which the accurate consumer loan payoff amount is provided;

if an accurate consumer loan payoff amount is not provided by the creditor or mortgage servicer within ten (10) calendar days after the creditor or mortgage servicer receives the debtor's second written request, and the creditor or mortgage servicer failed to comply with clause (A).

A liability under this subsection is an excess charge under IC 24-4.5-5-202.

SECTION 7. IC 24-4.5-3-502 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 502. Authority to Make Consumer Loans - Unless a person is a supervised financial organization or has first obtained a license from the department, the person shall not **regularly** engage in this state in the business of:

(†) (a) making consumer loans; or

(‡) (b) taking assignments of and undertaking direct collection of payments from or enforcement of rights against debtors arising from consumer loans. ~~but the person~~

However, an assignee may collect and enforce for three (3) months without a license if the ~~person~~ **assignee** promptly applies for a license and the ~~person's assignee's~~ application has not been denied.

SECTION 8. IC 24-4.5-3-503 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 503. License to Make Consumer Loans – (1) The department shall receive and act on all

applications for licenses to make consumer loans. Applications must be as prescribed by the director of the department of financial institutions.

(2) A license shall not be issued unless the department finds that the financial responsibility, character, and fitness of the applicant and of the members of the applicant (if the applicant is a co-partnership or an association) and of the officers and directors of the applicant (if the applicant is a corporation) are such as to warrant belief that the business will be operated honestly and fairly within the purposes of this article. The director is entitled to request evidence of compliance with this section **at the time of application or after a license is issued. The evidence requested includes, but is not limited to, an official report of criminal activity of the applicant from the state law enforcement agency or criminal history records repository of the state in which the applicant resides.**

(3) Upon written request, the applicant is entitled to a hearing on the question of the qualifications of the applicant for a license as provided in IC 4-21.5.

(4) The applicant shall pay the following fees at the time designated by the department:

(a) An initial license fee as established by the department under IC 28-11-3-5.

(b) An initial investigation fee as established by the department under IC 28-11-3-5.

(c) An annual renewal fee as established by the department under IC 28-11-3-5.

(d) A fee as established by the department under IC 28-11-3-5 may be charged for each day the annual renewal fee is delinquent.

(5) The applicant may deduct the fees required under subsection 4(a) through 4(c) from the filing fees paid under IC 24-4.5-6-203.

(6) A loan license issued under this section is not assignable or transferable.

SECTION 9. IC 24-4.5-5-204 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 204. Debtor's Right to Rescind Certain Transactions – (1) A violation by a creditor of Section 125 of the Federal Consumer Credit Protection Act (IC 24-4.5-1-302) concerning the debtor's right to rescind a transaction that is a consumer credit sale or a consumer loan constitutes a violation of IC 24-4.5. A

creditor may not accrue interest during the period when a consumer loan may be rescinded under Section 125 of the Federal Consumer Protection Act (15 U.S.C. 1635).

(2) A creditor must make available for disbursement the proceeds of a transaction subject to subsection (1) on the later of:

(A) the date the creditor is reasonably satisfied that the consumer has not rescinded the transaction; or

(B) the first business day after the expiration of the rescission period under subsection (1).

SECTION 10. IC 28-10-1-1, AS AMENDED BY P.L.215-1999, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1. A reference to a federal law or federal regulation in IC 28 is a reference to the law or regulation in effect January 1, ~~1999~~: **2000**.

SECTION 11. IC 33-16-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 7. ~~No person, being an officer in any corporation or association possessed of any banking powers, shall act as a notary public in the business of such corporation or association. The aforesaid prohibition shall not apply to employees of any such corporation or association. However, a person who is a shareholder or member of a savings association may act as a notary public in the business of such association and an officer and employee of a bank may become and act as a notary public in the business of the bank.~~ No person holding any lucrative office or appointment under the United States or under this state, and prohibited by the Constitution of this state from holding more than one (1) such lucrative office, shall serve as a notary public, and his acceptance of any such office shall vacate his appointment as such notary; but this provision shall not apply to any person holding any lucrative office or appointment under any civil or school city or town of this state. No person, being a public official, or a deputy or appointee acting for or serving under the same, shall make any charge for services as a notary public in connection with any official business of such office, or of any other office in the governmental unit in which such persons are serving, unless such charges are specifically authorized by some statute other than the statute fixing generally the fees and charges of notaries public.

SECTION 12. **An emergency is declared for this act.**

P.L.24-2000

[H.1011. Approved March 15, 2000.]

AN ACT to amend the Indiana Code concerning bias crimes and criminal law.

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

SECTION 1. IC 5-2-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1. The following definitions apply throughout this chapter:

(1) "Limited criminal history" means information with respect to any arrest, indictment, information, or other formal criminal charge, which must include a disposition. However, information about any arrest, indictment, information, or other formal criminal charge which occurred less than one (1) year before the date of a request shall be considered a limited criminal history even if no disposition has been entered.

(2) "**Bias crime**" means an offense in which the person who committed the offense knowingly or intentionally:

(A) selected the person who was injured; or

(B) damaged or otherwise affected property;

by the offense because of the color, creed, disability, national origin, race, religion, or sexual orientation of the injured person or of the owner or occupant of the affected property or because the injured person or owner or occupant of the affected property was associated with any other recognizable group or affiliation.

(3) "Council" means the security and privacy council created under section 11 of this chapter.

~~(3)~~ (4) "Criminal history data" means information collected by criminal justice agencies, the United States Department of Justice for the department's information system, or individuals. The term consists of the following:

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

(B) Information regarding an offender (as defined in IC 5-2-12-4) obtained through sex offender registration under IC 5-2-12.

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

~~(4)~~ **(5)** "Criminal justice agency" means any agency or department of any level of government whose principal function is the apprehension, prosecution, adjudication, incarceration, probation, rehabilitation, or representation of criminal offenders, the location of parents with child support obligations under 42 U.S.C. 653, the licensing and regulating of riverboat gambling operations, or the licensing and regulating of pari-mutuel horse racing operations. The term includes the Medicaid fraud control unit for the purpose of investigating offenses involving Medicaid. The term includes a nongovernmental entity that performs as its principal function the:

(A) apprehension, prosecution, adjudication, incarceration, or rehabilitation of criminal offenders;

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

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

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

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

~~(5)~~ **(6)** "Department" means the state police department.

~~(6)~~ **(7)** "Disposition" means information disclosing that criminal proceedings have been concluded or indefinitely postponed.

~~(7)~~ **(8)** "Inspection" means visual perusal and includes the right to make memoranda abstracts of the information.

~~(8)~~ **(9)** "Institute" means the Indiana criminal justice institute established under IC 5-2-6.

~~(9)~~ **(10)** "Law enforcement agency" means an agency or a department of any level of government whose principal function is the apprehension of criminal offenders.

~~(10)~~ **(11)** "Protective order" has the meaning set forth in IC 5-2-9-2.1.

~~(11)~~ **(12)** "Release" means the furnishing of a copy, or an edited copy, of criminal history data.

~~(12)~~ **(13)** "Reportable offenses" means all felonies and those Class A misdemeanors which the superintendent may designate.

~~(13)~~ **(14)** "Request" means the asking for release or inspection of a limited criminal history by noncriminal justice organizations or individuals in a manner which:

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

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

~~(14)~~ **(15)** "Unidentified person" means a deceased or mentally incapacitated person whose identity is unknown.

SECTION 2. IC 5-2-5-14.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 14.3. (a) A law enforcement agency shall collect information concerning bias crimes.**

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

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

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

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

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

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

(2) the Federal Bureau of Investigation;

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

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

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

- (1) be separated in reports on the basis of whether it is an alleged crime, a charged crime, or a crime for which a conviction has been obtained; and**
- (2) be divided in reports on the basis of whether, in the opinion of the reporting individual and, or the data collectors, the bias was the primary motivation for the crime or only incidental to the crime.**

P.L.25-2000

[H.1013. Approved March 15, 2000.]

AN ACT to amend the Indiana Code concerning corrections.

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

SECTION 1. IC 5-2-1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 9. (a) The board shall adopt in accordance with IC 4-22-2 all necessary rules to carry out the provisions of this chapter. Such rules, which shall be adopted only after necessary and proper investigation and inquiry by the board, shall include the establishment of the following:

- (1) Minimum standards of physical, educational, mental, and moral fitness which shall govern the acceptance of any person for training by any law enforcement training school or academy meeting or exceeding the minimum standards established pursuant to this chapter.
- (2) Minimum standards for law enforcement training schools administered by towns, cities, counties, the northwest Indiana law enforcement training center, agencies, or departments of the state.
- (3) Minimum standards for courses of study, attendance requirements, equipment, and facilities for approved town, city,

county, and state law enforcement officer, police reserve officer, and conservation reserve officer training schools.

(4) Minimum standards for a course of study on cultural diversity awareness that must be required for each person accepted for training at a law enforcement training school or academy.

(5) Minimum qualifications for instructors at approved law enforcement training schools.

~~(5)~~ **(6)** Minimum basic training requirements which law enforcement officers appointed to probationary terms shall complete before being eligible for continued or permanent employment.

~~(6)~~ **(7)** Minimum basic training requirements which law enforcement officers not appointed for probationary terms but appointed on other than a permanent basis shall complete in order to be eligible for continued employment or permanent appointment.

~~(7)~~ **(8)** Minimum basic training requirements which law enforcement officers appointed on a permanent basis shall complete in order to be eligible for continued employment.

(b) Except as provided in subsection (1), a law enforcement officer appointed after July 5, 1972, and before July 1, 1993, may not enforce the laws or ordinances of the state or any political subdivision unless the officer has, within one (1) year from the date of appointment, successfully completed the minimum basic training requirements established under this chapter by the board. If a person fails to successfully complete the basic training requirements within one (1) year from the date of employment, the officer may not perform any of the duties of a law enforcement officer involving control or direction of members of the public or exercising the power of arrest until the officer has successfully completed the training requirements. This subsection does not apply to any law enforcement officer appointed before July 6, 1972, or after June 30, 1993.

(c) Military leave or other authorized leave of absence from law enforcement duty during the first year of employment after July 6, 1972, shall toll the running of the first year, which in such cases shall be calculated by the aggregate of the time before and after the leave, for the purposes of this chapter.

(d) Except as provided in subsections (e) and (l), a law enforcement officer appointed to a law enforcement department or agency after June 30, 1993, may not:

- (1) make an arrest;
- (2) conduct a search or a seizure of a person or property; or
- (3) carry a firearm;

unless the law enforcement officer successfully completes, at a board certified law enforcement academy or at the northwest Indiana law enforcement training center under section 15.2 of this chapter, the basic training requirements established by the board under this chapter.

(e) Before a law enforcement officer appointed after June 30, 1993, completes the basic training requirements, the law enforcement officer may exercise the police powers described in subsection (d) if the officer successfully completes the pre-basic course established in subsection (f). Successful completion of the pre-basic course authorizes a law enforcement officer to exercise the police powers described in subsection (d) for one (1) year after the date the law enforcement officer is appointed.

(f) The board shall adopt rules under IC 4-22-2 to establish a pre-basic course for the purpose of training:

- (1) law enforcement officers;
- (2) police reserve officers (as described in IC 36-8-3-20); and
- (3) conservation reserve officers (as described in IC 14-9-8-27);

regarding the subjects of arrest, search and seizure, use of force, and firearm qualification. The pre-basic course must be offered on a periodic basis throughout the year at regional sites statewide. The pre-basic course must consist of forty (40) hours of course work. The board may prepare a pre-basic course on videotape that must be used in conjunction with live instruction. The board shall provide the course material, the instructors, and the facilities at the regional sites throughout the state that are used for the pre-basic course. In addition, the board may certify pre-basic courses that may be conducted by other public or private training entities, including colleges and universities.

(g) The board shall adopt rules under IC 4-22-2 to establish a mandatory inservice training program for police officers. After June 30, 1993, a law enforcement officer who has satisfactorily completed the basic training and has been appointed to a law enforcement department or agency on either a full-time or part-time basis is not eligible for

continued employment unless the officer satisfactorily completes a minimum of sixteen (16) hours each year of inservice training in any subject area included in the law enforcement academy's basic training course or other job related subjects that are approved by the board as determined by the law enforcement department's or agency's needs. In addition, a certified academy staff may develop and make available inservice training programs on a regional or local basis. The board may approve courses offered by other public or private training entities, including colleges and universities, as necessary in order to ensure the availability of an adequate number of inservice training programs. The board may waive an officer's inservice training requirements if the board determines that the officer's reason for lacking the required amount of inservice training hours is due to any of the following:

- (1) An emergency situation.
- (2) The unavailability of courses.

(h) The board shall also adopt rules establishing a town marshal basic training program, subject to the following:

- (1) The program must require fewer hours of instruction and class attendance and fewer courses of study than are required for the mandated basic training program.
- (2) Certain parts of the course materials may be studied by a candidate at the candidate's home in order to fulfill requirements of the program.
- (3) Law enforcement officers successfully completing the requirements of the program are eligible for appointment only in towns employing the town marshal system (IC 36-5-7) and having no more than one (1) marshal and two (2) deputies.
- (4) The limitation imposed by subdivision (3) does not apply to an officer who has successfully completed the mandated basic training program.
- (5) The time limitations imposed by subsections (b) and (c) for completing the training are also applicable to the town marshal basic training program.

(i) The board shall adopt rules under IC 4-22-2 to establish a police chief executive training program. The program must include training in the following areas:

- (1) Liability.
- (2) Media relations.

- (3) Accounting and administration.
- (4) Discipline.
- (5) Department policy making.
- (6) Firearm policies.
- (7) Department programs.

(j) A police chief shall apply for admission to the police chief executive training program within two (2) months of the date the police chief initially takes office. A police chief must successfully complete the police chief executive training program within six (6) months of the date the police chief initially takes office. However, if space in the program is not available at a time that will allow the police chief to complete the program within six (6) months of the date the police chief initially takes office, the police chief must successfully complete the next available program that is offered to the police chief after the police chief initially takes office.

(k) A police chief who fails to comply with subsection (j) may not serve as the police chief until the police chief has completed the police chief executive training program. For the purposes of this subsection and subsection (j), "police chief" refers to:

- (1) the police chief of any city; and
- (2) the police chief of any town having a metropolitan police department.

A town marshal is not considered to be a police chief for these purposes, but a town marshal may enroll in the police chief executive training program.

(l) An investigator in the arson division of the office of the state fire marshal appointed:

- (1) before January 1, 1994, is not required; or
- (2) after December 31, 1993, is required;

to comply with the basic training standards established under this section.

SECTION 2. IC 11-8-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 8. (a) All officers and employees of the department, with the exception of the members of the board, members of the parole board, the commissioner, any deputy commissioner, and any superintendent, are within the scope of IC 4-15-2.

(b) IC 11-10-5 applies to teachers employed under that chapter,

notwithstanding IC 4-15-2.

(c) The department shall cooperate with the state personnel department in establishing minimum qualification standards for employees of the department and in establishing a system of personnel recruitment, selection, employment, and distribution.

(d) The department shall conduct training programs designed to equip employees for duty in its facilities and programs and raise their level of performance. Training programs conducted by the department need not be limited to inservice training. They may include preemployment training, internship programs, and scholarship programs in cooperation with appropriate agencies. When funds are appropriated, the department may provide educational stipends or tuition reimbursement in such amounts and under such conditions as may be determined by the department and the personnel division.

(e) The department shall conduct a training program on cultural diversity awareness that must be a required course for each employee of the department who has contact with incarcerated persons.

(f) The department shall establish a correctional officer training program with a curriculum, and administration by agencies, to be determined by the commissioner. A certificate of completion shall be issued to any person satisfactorily completing the training program. A certificate may also be issued to any person who has received training in another jurisdiction if the commissioner determines that ~~that~~ the training was at least equivalent to the training program maintained under this subsection.

P.L.26-2000

[H.1024. Approved March 15, 2000.]

AN ACT to amend the Indiana Code concerning elections.

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

SECTION 1. IC 1-1-9-1 IS AMENDED TO READ AS FOLLOWS

[EFFECTIVE UPON PASSAGE]: Sec. 1. (a) The following are legal holidays within the state of Indiana for all purposes:

New Year's Day, January 1.
 Martin Luther King, Jr.'s Birthday, the third Monday in January.
 Abraham Lincoln's Birthday, February 12.
 George Washington's Birthday, the third Monday in February.
 Good Friday, a movable feast day.
 Memorial Day, the last Monday in May.
 Independence Day, July 4.
 Labor Day, the first Monday in September.
 Columbus Day, the second Monday in October.
 Election Day, the day of any general, municipal, or primary election.
 Veterans Day, November 11.
 Thanksgiving Day, the fourth Thursday in November.
 Christmas Day, December 25.
 Sunday, the first day of the week.

(b) When any of these holidays, other than Sunday, comes on Sunday, the following Monday shall be the legal holiday. When any of these holidays comes on Saturday, the preceding Friday shall be the legal holiday.

(c) ~~The provisions of~~ This section ~~shall~~ **does** not affect any action taken by the **state, the** general assembly while in session, ~~and or a political subdivision (as defined in IC 36-1-2-13)~~. Any action taken by the **state, the** general assembly, **or a political subdivision** on any such holiday shall be valid for all purposes.

SECTION 2. IC 3-6-4.2-14, AS AMENDED BY P.L.38-1999, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 14. (a) Each year **in which a general or municipal election is held**, the election division shall call a meeting of all the members of the county election boards and the boards of registration to instruct them as to their duties under this title. **The election division may, but is not required to, call a meeting under this section during a year in which a general or a municipal election is not held.**

(b) Each circuit court clerk shall attend ~~the~~ **a meeting called by the election division under this section.**

~~(b)~~ (c) The co-directors of the election division shall set the time and

place of the instructional meeting. In years in which a primary election is held, the election division:

(1) may conduct the meeting before the first day of the year; and

(2) shall conduct the meeting before primary election day.

The instructional meeting may not last for more than two (2) days.

~~(c)~~ **(d)** Each member of a county election board or board of registration is entitled to receive all of the following:

(1) A per diem of twenty-four dollars (\$24) for attending the instructional meeting ~~required~~ **called by the election division under** this section.

(2) A mileage allowance at the state rate for the distance necessarily traveled in going and returning from the place of the instructional meeting ~~required~~ **called by the election division under** this section.

(3) Reimbursement for the payment of the instructional meeting registration fee from the county general fund without appropriation.

(4) An allowance for lodging for each night preceding conference attendance equal to the lodging allowance provided to state employees in travel status.

SECTION 3. IC 3-6-5.2-6, AS AMENDED BY P.L.176-1999, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) The board has all of the powers and duties given in this title **(and powers and duties concerning elections or voter registration given in other titles of the Indiana Code)** to the following:

(1) The county election board.

(2) The board of registration.

(3) The circuit court clerk.

(4) The county executive.

(b) The director appointed under section 7 of this chapter shall perform all the duties of the circuit court clerk under this title **and perform the election or voter registration duties of the circuit court clerk under other titles of the Indiana Code.** The board shall perform all the duties of the county executive under this title **and perform the election duties of the county executive under other titles of the Indiana Code.**

SECTION 4. IC 3-8-1-1.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 1.6. (a) This section does not apply to a candidate ~~for a school board office~~. **unless the candidate is required to file a campaign finance statement of organization under IC 3-9-1-5 or IC 3-9-1-5.5.**

(b) Not later than noon fourteen (14) days after the final day for filing a declaration of candidacy, declaration of intent to be a write-in candidate, petition of nomination, certificate of nomination, or certificate of candidate selection under IC 3-13-1-15 or IC 3-13-2-8, the election division or county election board shall determine if a candidate has complied with IC 3-9-1-5 **or IC 3-9-1-5.5 (if applicable)** by filing any campaign finance statement of organization required for the candidate's committee.

SECTION 5. IC 3-8-2-2.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 2.2. (a) A candidate for a school board office must file a petition of nomination in accordance with IC 3-8-6 and as required under IC 20-3 or IC 20-4. The petition of nomination, once filed, serves as the candidate's declaration of candidacy for a school board office.

(b) A candidate for a school board office is not required to file a statement of organization for the candidate's principal committee by noon seven (7) days after the final date for filing a petition of nomination or declaration of intent to be a write-in candidate unless the candidate has received contributions or made expenditures requiring the filing of a statement under ~~IC 3-9-1-5~~. **IC 3-9-1-5.5.**

SECTION 6. IC 3-8-2-2.5, AS AMENDED BY P.L.202-1999, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 2.5. (a) A person who desires to be a write-in candidate for a federal, state, legislative, or local office or school board office in a general, municipal, or school board election must file a declaration of intent to be a write-in candidate with the officer with whom declaration of candidacy must be filed under sections 5 and 6 of this chapter.

(b) The declaration of intent to be a write-in candidate required under subsection (a) must be signed before a person authorized to administer oaths and must certify the following information:

- (1) The candidate's name must be printed or typewritten as:
 - (A) the candidate wants the candidate's name to appear on the

ballot; and

(B) the candidate's name is permitted to appear on the ballot under IC 3-5-7.

(2) A statement that the candidate is a registered voter and the location of the candidate's precinct and township (or ward and city or town), county, and state.

(3) The candidate's complete residence address, and if the candidate's mailing address is different from the residence address, the mailing address.

(4) The candidate's party affiliation or a statement that the candidate is an independent candidate (not affiliated with any party).

(5) A statement of the candidate's intention to be a write-in candidate, the name of the office, including the district, and the date and type of election.

(6) If the candidate is a candidate for the office of President or Vice President of the United States, a statement declaring the names of the individuals who have consented and are eligible to be the candidate's candidates for presidential electors.

(7) A statement that the candidate:

(A) is aware of the provisions of IC 3-9 regarding campaign finance and the reporting of campaign contributions and expenditures; and

(B) agrees to comply with the provisions of IC 3-9.

The candidate must separately sign the statement required by this subdivision.

(8) A statement as to whether the candidate has:

(A) been a candidate for state or local office in a previous primary or general election; and

(B) filed all reports required by IC 3-9-5-10 for all previous candidacies.

(9) If the candidate is subject to IC 3-9-1-5, a statement that the candidate has filed a campaign finance statement of organization for the candidate's principal committee or is aware that the candidate may be required to file a campaign finance statement of organization not later than noon seven (7) days after the final date to file the declaration of intent to be a write-in candidate under section 4 of this chapter.

(10) ~~A statement that~~ If the individual is a candidate for a school board office, ~~is subject to IC 3-9-1-5.5, a statement that~~ the candidate is required to file a campaign finance statement of organization under IC 3-9 after the first of either of the following occurs:

(A) The candidate receives more than five hundred dollars (\$500) in contributions. ~~as a school board candidate.~~

(B) The candidate makes more than five hundred dollars (\$500) in expenditures. ~~as a school board candidate.~~

(11) A statement that the candidate complies with all requirements under the laws of Indiana to be a candidate for the above named office, including any applicable residency requirements, and that the candidate is not ineligible to be a candidate due to a criminal conviction that would prohibit the candidate from serving in the office.

(12) The candidate's signature and telephone number.

(c) At the time of filing the declaration of intent to be a write-in candidate, the write-in candidate is considered a candidate for all purposes.

(d) A write-in candidate must comply with the requirements under IC 3-8-1 that apply to the office to which the write-in candidate seeks election.

(e) A person may not be a write-in candidate in a contest for nomination or for election to a political party office.

(f) A write-in candidate for the office of President or Vice President of the United States must list at least one (1) candidate for presidential elector and may not list more than the total number of presidential electors to be chosen in Indiana.

(g) The commission shall provide that the form of a declaration of intent to be a write-in candidate includes the following information near the separate signature required by subsection (b)(7):

(1) The dates for filing campaign finance reports under IC 3-9.

(2) The penalties for late filing of campaign finance reports under IC 3-9.

(h) A declaration of intent to be a write-in candidate must include a statement that the candidate requests the name on the candidate's voter registration record be the same as the name the candidate uses on the declaration of intent to be a write-in candidate. If there is a

difference between the name on the candidate's declaration of intent to be a write-in candidate and the name on the candidate's voter registration record, the officer with whom the declaration of intent to be a write-in candidate is filed shall forward the information to the voter registration officer of the appropriate county as required by IC 3-5-7-6(e). The voter registration officer of the appropriate county shall change the name on the candidate's voter registration record to be the same as the name on the candidate's declaration of intent to be a write-in candidate.

SECTION 7. IC 3-8-6-12, AS AMENDED BY P.L.176-1999, SECTION 33, AND AS AMENDED BY P.L.202-1999, SECTION 8, IS AMENDED AND CORRECTED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 12. (a) A petition of nomination for an office filed under section 10 of this chapter must be filed with and certified by the person with whom a declaration of candidacy must be filed under IC 3-8-2.

(b) The petition of nomination must be accompanied by the following:

- (1) ~~Each~~ The candidate's written consent to become a candidate.
- (2) A statement that the candidate:
 - (A) is aware of the provisions of IC 3-9 regarding campaign finance and the reporting of campaign contributions and expenditures; and
 - (B) agrees to comply with the provisions of IC 3-9.

The candidate must separately sign the statement required by this subdivision.

(3) If the candidate is subject to IC 3-9-1-5, a statement by the candidate that the candidate has filed a campaign finance statement of organization under IC 3-9-1-5 or is aware that the candidate may be required to file a campaign finance statement of organization not later than noon seven (7) days after the final date for filing a petition for nomination under section 10 of this chapter.

(4) ~~A statement that~~ **If the individual is a candidate for a school board office, is subject to IC 3-9-1-5.5, a statement by the candidate that** the candidate is aware of the requirement to file a campaign finance statement of organization under IC 3-9 after the first of either of the following occurs:

- (A) The candidate receives more than five hundred dollars (\$500) in contributions. ~~as a school board candidate.~~
- (B) The candidate makes more than five hundred dollars (\$500) in expenditures. ~~as a school board candidate.~~
- (5) A statement indicating whether or not each candidate:
 - (A) has been a candidate for state or local office in a previous primary or general election; and
 - (B) has filed all reports required by IC 3-9-5-10 for all previous candidacies.
- (6) A statement that each candidate is legally qualified to hold the office that the candidate seeks, including any applicable residency requirements and restrictions on service due to a criminal conviction.
- (7) If the petition is filed with the secretary of state for an office not elected by the electorate of the whole state, a statement signed by the circuit court clerk of each county in the election district of the office sought by the individual.
- (8) *Any statement of economic interests required under IC 3-8-1-33.*
- (c) The statement required under subsection (b)(7) must:
 - (1) be certified by each circuit court clerk; and
 - (2) indicate the number of votes cast for secretary of state:
 - (A) at the last election for secretary of state; and
 - (B) in the part of the county included in the election district of the office sought by the individual filing the petition.
- (d) The secretary of state shall, by noon August 20, certify each petition of nomination filed in the secretary of state's office to the appropriate county.
- (e) The commission shall provide that the form of a petition of nomination includes the following information near the separate signature required by subsection (b)(2):
 - (1) The dates for filing campaign finance reports under IC 3-9.
 - (2) The penalties for late filing of campaign finance reports under IC 3-9.
- (f) *A candidate's consent to become a candidate must include a statement that the candidate requests the name on the candidate's voter registration record be the same as the name the candidate uses on the consent to become a candidate. If there is a difference between the*

name on the candidate's consent to become a candidate and the name on the candidate's voter registration record, the officer with whom the consent to become a candidate is filed shall forward the information to the voter registration officer of the appropriate county as required by IC 3-5-7-6(e). The voter registration officer of the appropriate county shall change the name on the candidate's voter registration record to be the same as the name on the candidate's consent to become a candidate.

SECTION 8. IC 3-9-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 1. (a) Except as provided in subsection (b), this chapter applies to candidates in all elections and caucuses and to the following types of committees:

- (1) Candidate's committees.
- (2) Regular party committees.
- (3) Political action committees.
- (4) Legislative caucus committees.

(b) This chapter does not apply to the following:

- (1) ~~Elections to a~~ **A candidate for a local office** for which the compensation is less than five thousand dollars (\$5,000) per year **unless the candidate is required to file a written instrument designating a principal committee under section 5.5 of this chapter.**
- (2) ~~Candidates~~ **A candidate** for school board office ~~except a~~ **unless the candidate who** is required to file a written instrument designating a principal committee under ~~section 5~~ **section 5.5** of this chapter.
- (3) Elections for precinct committeeman or delegate to a state convention.
- (4) An auxiliary party organization.

SECTION 9. IC 3-9-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 5. (a) **This section does not apply to the following candidates:**

- (1) **A candidate for a local office for which the compensation is less than five thousand dollars (\$5,000) per year.**
- (2) **A candidate for a school board office.**

(b) Each candidate shall have a principal committee.

~~(b) This subsection does not apply to a candidate for school board office. No~~ (c) **Not later than:**

- (1) noon ten (10) days after becoming a candidate; or
- (2) noon seven (7) days after the final date and hour for filing a:
 - (A) declaration of candidacy under IC 3-8-2;
 - (B) petition of nomination under IC 3-8-6;
 - (C) certificate of nomination under IC 3-8-7-8;
 - (D) certificate of candidate selection under IC 3-13-1 or IC 3-13-2; or
 - (E) declaration of intent to be a write-in candidate under IC 3-8-2;

whichever occurs first;

the candidate shall file a written instrument designating the name of the principal committee and the names of the chairman and treasurer of the committee.

~~(c) This subsection applies to a candidate for school board office. Not later than noon ten (10) days after either:~~

- ~~(1) the candidate receives more than five hundred dollars (\$500) in contributions as a school board candidate; or~~
- ~~(2) the candidate makes more than five hundred dollars (\$500) in expenditures as a school board candidate;~~

~~whichever occurs first; the candidate shall file a written instrument designating the name of the principal committee and the names of the chairman and treasurer of the committee.~~

(d) This designation may be made on the same instrument as the statement of organization required from the principal committee.

SECTION 10. IC 3-9-1-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: **Sec. 5.5. (a) This section applies to the following candidates:**

- (1) A candidate for a local office for which the compensation is less than five thousand dollars (\$5,000) per year.**
- (2) A candidate for a school board office.**
- (b) A candidate shall have a principal committee.**
- (c) Not later than noon ten (10) days after either:**

- (1) the candidate receives more than five hundred dollars (\$500) in contributions; or**
- (2) the candidate makes more than five hundred dollars (\$500) in expenditures;**

whichever occurs first, the candidate shall file a written instrument

designating the name of the principal committee and the names of the chairman and treasurer of the committee.

(d) This designation may be made on the same instrument as the statement of organization required from the principal committee.

SECTION 11. IC 3-9-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 6. If a candidate fails to file the instrument required by section 5 **or 5.5** of this chapter, the candidate's principal committee is designated as "the _____ (insert the name of the candidate) for _____ (insert the title of the office sought by the candidate) committee". The candidate is then both chairman and treasurer of the committee.

SECTION 12. IC 3-9-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 1. (a) Except as provided in subsections (b) and (c), this chapter applies to candidates in all elections and caucuses and to the following types of committees:

- (1) Candidate's committees.
- (2) Regular party committees.
- (3) Political action committees.
- (4) A legislative caucus committee.

(b) Sections 2 through 10 of this chapter do not apply to ~~the~~ following:

- ~~(1) Elections to local offices for which the compensation is less than five thousand dollars (\$5,000) per year.~~
- ~~(2) elections for precinct committeeman or delegate to a state convention.~~

(c) Section 9 of this chapter ~~does not apply~~ **applies** to a candidate for ~~school board office unless only if~~ the candidate is required to file a written instrument designating a principal committee under IC 3-9-1-5 **or IC 3-9-1-5.5**.

(d) Sections 9 and 10 of this chapter apply to an auxiliary party organization.

SECTION 13. IC 3-9-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 1. (a) Except as provided in subsection (b), this chapter applies to candidates in all elections and caucuses and to the following types of committees:

- (1) Candidate's committees.
- (2) Regular party committees.
- (3) Political action committees.

- (4) A legislative caucus committee.
- (b) This chapter does not apply to the following:
 - (1) ~~Elections to~~ **A candidate for a local offices office** for which the compensation is less than five thousand dollars (\$5,000) per year **unless the candidate is required to file a written instrument designating a principal committee under IC 3-9-1-5.5.**
 - (2) Elections for precinct committeeman or delegate to a state convention.
 - (3) A candidate for a school board office ~~except a~~ **unless the candidate who** is required to file a written instrument designating a principal committee under ~~IC 3-9-1-5.~~ **IC 3-9-1-5.5.**
 - (4) An auxiliary party organization.

SECTION 14. IC 3-9-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 1. (a) Except as provided in subsection (b), this chapter applies to candidates in all elections and caucuses and to the following types of committees:

- (1) Candidate's committees.
- (2) Regular party committees.
- (3) Political action committees.
- (4) A legislative caucus committee.
- (b) This chapter does not apply to the following:
 - (1) ~~Elections to~~ **A candidate for a local or school board offices office** for which the compensation is less than five thousand dollars (\$5,000) per year **unless the candidate is required to file a written instrument designating a principal committee under IC 3-9-1-5.5.**
 - (2) ~~Candidates~~ **A candidate** for school board office ~~except a~~ **unless the candidate who** is required to file a written instrument designating a principal committee under ~~IC 3-9-1-5.~~ **IC 3-9-1-5.5.**
 - (3) Elections for precinct committeeman or delegate to a state convention.
 - (4) An auxiliary party organization.

SECTION 15. IC 3-11-13-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 20. **(a) This section does not apply to an optical scan ballot card voting system.**

(b) Each county election board shall maintain a record of the serial numbers of all of the ballot cards provided to a precinct and shall note

in this record the precinct to which each ballot card relates.

SECTION 16. IC 3-11-13-22, AS AMENDED BY P.L.176-1999, SECTION 81, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE NOVEMBER 1, 1999 (RETROACTIVE)]: Sec. 22. (a) At least fourteen (14) days before election day, the county election board of each county planning to use automatic tabulating machines at the next election shall have the automatic tabulating machines tested to ascertain that the machines will correctly count the votes cast ~~in all precincts~~ for all candidates and on all public questions. Not later than seven (7) days after conducting the test under this subsection, the county election board shall certify to the election division that the ~~pretest test~~ has been conducted in conformity with this subsection.

(b) ~~At least seven (7) days before election day, a county election board required to conduct a pretest under subsection (a) shall conduct a public test under this subsection. The public test conducted under this subsection consists of a sample of precincts designated by the county election board. However, the sample must include at least one (1) precinct in each election district in which each candidate appears on the ballot.~~ Public notice of the time and place shall be given at least forty-eight (48) hours before the test. The notice shall be published once in accordance with IC 5-3-1-4.

SECTION 17. IC 3-11-13-23, AS AMENDED BY P.L.176-1999, SECTION 82, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE NOVEMBER 1, 1999 (RETROACTIVE)]: Sec. 23. (a) The two (2) appointed members of the county election board shall observe the ~~tests test~~ required by section 22 of this chapter and certify the ~~tests test~~ as meeting the requirements of section 22 of this chapter.

(b) A copy of the certification of the test conducted under section 22(b) of this chapter shall be transmitted to the election division immediately, and another copy shall be filed with the election returns.

(c) The ~~tests test~~ must be open to representatives of political parties, candidates, the media, and the public.

SECTION 18. IC 3-11-13-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE NOVEMBER 1, 1999 (RETROACTIVE)]: Sec. 24. The ~~tests test~~ required by section 22 of this chapter must:

- (1) include the visual inspection of the voting devices for the correct alignment of the card stock and the templates for proper punching;

(2) be conducted by processing a preaudited group of ballot cards punched or marked so as to record a predetermined number of valid votes for each candidate and on each public question; and (3) include for each office one (1) or more ballot cards that have votes in excess of the number allowed by law in order to test the ability of the automatic tabulating machines to reject the votes.

SECTION 19. IC 3-11-13-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE NOVEMBER 1, 1999 (RETROACTIVE)]: Sec. 25. If an error is detected during the ~~tests~~ **test** required by section 22 of this chapter, the cause of the error shall be determined and corrected, and an errorless count shall be made before the automatic tabulating machines are approved.

SECTION 20. IC 3-11-13-26, AS AMENDED BY P.L.176-1999, SECTION 83, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE NOVEMBER 1, 1999 (RETROACTIVE)]: Sec. 26. (a) ~~The public test~~ required by section 22(b) of this chapter shall be repeated and certified again in the same manner immediately before the start of the official count of the ballot cards.

(b) ~~The certification shall be filed with the election returns but is not required to be filed with the election division.~~

(c) ~~After the completion of the count, the county election board shall conduct a posttest using the same sample included in the public test conducted under section 22(b) of this chapter. The county election board shall certify the results of the posttest and file the certification with the election returns. A copy of the posttest certification is not required to be filed with the election division.~~

(d) ~~After completion of the posttest, count, the tested~~ tabulating machines shall be sealed in the same manner as voting machines under IC 3-12-2.5-6. The ballot cards and all other election materials shall be sealed, retained, and disposed of as provided for paper ballots.

SECTION 21. IC 3-13-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. A candidate vacancy for a legislative office shall be filled by a caucus comprised by the precinct committeemen ~~and vice committeemen~~ of the political party whose precincts are within the senate or house district.

SECTION 22. IC 3-13-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) Except as provided in subsection (b), a candidate vacancy for a local office shall

be filled by:

- (1) a caucus comprised of the precinct committeemen ~~and vice committeemen~~ who are eligible to participate under section 10 of this chapter; or
- (2) the county chairman of the political party or a caucus comprised of the chairman, vice chairman, secretary, and treasurer of the county committee of the party, if:
 - (A) authorized to fill vacancies under this chapter by majority vote of the county committee; and
 - (B) the election district for the local office is entirely within one (1) county.

(b) A candidate vacancy for the office of circuit court judge or prosecuting attorney in a circuit having more than one (1) county shall be filled by a caucus comprised of the precinct committeemen ~~and vice committeemen~~ who constitute the county committees of the political party for all of the circuit.

SECTION 23. IC 3-13-1-10, AS AMENDED BY P.L.176-1999, SECTION 114, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) To be eligible to participate in a caucus called under section 7 of this chapter, an elected precinct committeeman ~~or vice committeeman~~ must be entitled to vote for the office for which a candidate is to be selected. An elected precinct committeeman is eligible to participate in a caucus called under this chapter, regardless of when the ballot vacancy occurred. ~~The vice committeeman of an elected precinct committeeman is eligible to participate in a caucus called under this chapter, regardless of when the ballot vacancy occurred.~~

(b) An appointed precinct committeeman is eligible to participate in a caucus called under section 7 of this chapter if the precinct committeeman was a committeeman thirty (30) days before the vacancy occurred. ~~The vice committeeman of an appointed precinct committeeman is eligible to participate in a caucus called under section 7 of this chapter if the vice committeeman was a vice committeeman thirty (30) days before the vacancy occurred.~~

SECTION 24. IC 3-13-1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) At a meeting called under section 7 of this chapter, the eligible participants shall:

- (1) establish the caucus rules of procedure, except as otherwise provided in this chapter; and
- (2) select, by a majority vote of those casting a vote for a candidate, a person to fill the candidate vacancy described in the call for the meeting.

(b) ~~Voting by proxy is not allowed.~~ If more than one (1) person seeks to fill the vacancy, the selection shall be conducted by secret ballot.

SECTION 25. IC 3-13-1-11.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 11.5. (a) Except as provided in this section, voting by proxy is not permitted in a caucus called under section 7 of this chapter.**

(b) A precinct vice committeeman is entitled to participate in a caucus called under section 7 of this chapter and vote as a proxy for the vice committeeman's precinct committeeman if all of the following apply:

- (1) The vice committeeman's precinct committeeman is otherwise eligible to participate in the caucus under this chapter.**
- (2) The vice committeeman's precinct committeeman is not present at the caucus.**
- (3) The vice committeeman is eligible under this section.**

(c) The vice committeeman of an elected precinct committeeman is eligible to participate in a caucus called under section 7 of this chapter and vote the precinct committeeman's proxy, regardless of when the ballot vacancy occurred, if the vice committeeman was the vice committeeman five (5) days before the date of the caucus.

(d) If a vice committeeman is not eligible under subsection (c), the vice committeeman is eligible to participate in a caucus called under section 7 of this chapter and vote the precinct committeeman's proxy only if the vice committeeman was the vice committeeman thirty (30) days before the ballot vacancy occurred.

SECTION 26. IC 3-13-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 1. (a) A vacancy in a legislative office shall be filled by a caucus comprised of the precinct committeemen from the senate or house district where the vacancy exists who represent the same political party that elected or selected the**

person who held the vacated seat.

(b) Not later than thirty (30) days after the vacancy occurs (or as provided in subsection (c)), the caucus shall meet and select a person to fill the vacancy by a majority vote of those casting a vote for a candidate, including vice committeemen eligible ~~under proxies filed to vote as a proxy~~ under section 5 of this chapter.

(c) A state chairman may give notice of a caucus before the time specified under subsection (b) if a vacancy will exist because the official has:

- (1) submitted a written resignation under IC 5-8-3.5 that has not yet taken effect; or
- (2) been elected to another office.

(d) Notwithstanding IC 5-8-4, a person may not withdraw the person's resignation after the resignation has been accepted by the person authorized to accept the resignation less than seventy-two (72) hours before the announced starting time of the caucus under this chapter.

(e) The person selected must reside in the district where the vacancy occurred.

SECTION 27. IC 3-13-5-4, AS AMENDED BY P.L.176-1999, SECTION 115, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) To be eligible to participate in a caucus called under this chapter, an elected precinct committeeman must be entitled to vote for the legislative office for which a successor is to be selected. An elected precinct committeeman is eligible to participate in a caucus called under this chapter, regardless of when the vacancy in the legislative office occurred. ~~The vice committeeman of an elected precinct committeeman is eligible to participate in a caucus called under this chapter, regardless of when the vacancy in the legislative office occurred.~~

(b) An appointed precinct committeeman is eligible to participate in a caucus called under this chapter if the precinct committeeman was a committeeman thirty (30) days before the vacancy occurred. ~~The vice committeeman of an appointed precinct committeeman is eligible to participate in a caucus called under this chapter if the vice committeeman was a vice committeeman thirty (30) days before the vacancy occurred.~~

(c) An individual eligible to participate in a caucus held under this

chapter has one (1) vote.

SECTION 28. IC 3-13-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) ~~Subject to subsection (b);~~ **Except as provided in this section,** voting by proxy is not allowed in a caucus meeting held under this chapter.

(b) ~~A precinct committeeman may designate a precinct vice committeeman who:~~

(1) ~~is a member of the same political party that elected or selected the person who vacated the office to be filled;~~

(2) ~~is the vice committeeman for the committeeman's precinct; and~~

(3) ~~has been a vice committeeman continuously for a period beginning thirty (30) days before the date the vacancy occurred; as the committeeman's proxy in a caucus meeting. A precinct committeeman who is not eligible to participate in the caucus may designate a precinct vice-committeeman who is eligible to participate under this subsection as the representative of the precinct. To be effective, the designation must be filed with the chairman of the caucus meeting at least seventy-two (72) hours before the meeting. The chairman of the caucus meeting shall read the list of the persons eligible to vote under a proxy in the caucus meeting before any voting occurs. A proxy may not be revoked after it is filed with the chairman of the caucus meeting.~~

(c) ~~If the vacancy to be filled under this chapter resulted from the death of a person holding a legislative office who also served as a precinct committeeman, the vice committeeman for that precinct is eligible to participate in the caucus.~~

(b) A precinct vice committeeman is entitled to participate in a caucus held under this chapter and vote as a proxy for the vice committeeman's precinct committeeman if all of the following apply:

(1) The vice committeeman's precinct committeeman is otherwise eligible to participate in the caucus under this chapter. This subdivision is satisfied if the vacancy to be filled under this chapter resulted from the death of an individual holding a legislative office who also served as a precinct committeeman.

(2) The vice committeeman's precinct committeeman is not

present at the caucus.

(3) The vice committeeman is eligible under this section.

(c) The vice committeeman of an elected precinct committeeman is eligible to participate in a caucus held under this chapter and vote the precinct committeeman's proxy, regardless of when the ballot vacancy occurred, if the vice committeeman was the vice committeeman five (5) days before the date of the caucus.

(d) If a vice committeeman is not eligible under subsection (c), the vice committeeman is eligible to participate in a caucus held under this chapter and vote the precinct committeeman's proxy only if the vice committeeman was the vice committeeman thirty (30) days before the ballot vacancy occurred.

~~(d)~~ **(e)** Voting shall be conducted by secret ballot, and IC 5-14-1.5-3(b) does not apply to this chapter.

SECTION 29. IC 3-13-11-5, AS AMENDED BY P.L.176-1999, SECTION 116, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) To be eligible to be a member of a caucus under this chapter, a precinct committeeman ~~or vice committeeman~~ must satisfy the following:

(1) Be a member of the same political party that elected or selected the person who vacated the office to be filled.

(2) Be the precinct committeeman ~~or vice committeeman~~ of a precinct in which voters were eligible to vote for the person who vacated the office to be filled at the last election conducted or permitted for the office.

(3) Satisfy the other requirements of this section.

An elected precinct committeeman is eligible to participate in a caucus called under this chapter, regardless of when the vacancy in the office occurred. ~~The vice committeeman of an elected precinct committeeman is eligible to participate in a caucus called under this chapter, regardless of when the vacancy in the office occurred.~~

(b) An appointed precinct committeeman is eligible to participate in a caucus called under this chapter if the precinct committeeman was a precinct committeeman thirty (30) days before the vacancy occurred. ~~The vice committeeman of an appointed precinct committeeman is eligible to participate in a caucus called under this chapter if the vice committeeman was a vice committeeman thirty (30) days before the vacancy occurred.~~

(c) If fewer than two (2) persons are eligible to be members of a caucus under this section, the county chairman entitled to give notice of a caucus under section 3 of this chapter shall fill the vacancy, no later than thirty (30) days after the vacancy occurs. A chairman acting under this subsection is not required to conduct a caucus.

(d) If the vacancy to be filled under this chapter resulted from the death of a person holding a local office who also served as a precinct committeeman, the vice committeeman for that precinct is eligible to participate in the caucus.

SECTION 30. IC 3-13-11-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) Subject to subsection (b), **Except as provided in this section, a member of a caucus under this chapter may not vote voting by proxy is not permitted in a caucus held under this chapter.**

(b) A precinct committeeman may designate a precinct vice committeeman who:

(1) is a member of the same political party that elected or selected the person who vacated the office to be filled;

(2) is the vice committeeman for the committeeman's precinct; and

(3) has been a vice committeeman continuously for a period beginning thirty (30) days before the date the vacancy occurred; as the committeeman's proxy in a caucus meeting. A precinct committeeman who is not eligible to participate in the caucus may designate a precinct vice committeeman who is eligible to participate under this subsection as the representative of the precinct.

(c) To be effective, the designation must be filed with the chairman of the caucus meeting at least seventy-two (72) hours before the meeting. The chairman of the caucus meeting shall read the list of persons eligible to vote under a proxy in the caucus meeting before any voting occurs. A proxy may not be revoked after it is filed with the chairman of the caucus meeting.

(b) A precinct vice committeeman is entitled to participate in a caucus held under this chapter and vote as a proxy for the vice committeeman's precinct committeeman if all of the following apply:

(1) The vice committeeman's precinct committeeman is otherwise eligible to participate in the caucus under this

chapter. This subdivision is satisfied if the vacancy to be filled under this chapter resulted from the death of an individual holding a local office who also served as a precinct committeeman.

(2) The vice committeeman's precinct committeeman is not present at the caucus.

(3) The vice committeeman is eligible under this section.

(c) The vice committeeman of an elected precinct committeeman is eligible to participate in a caucus held under this chapter and vote the precinct committeeman's proxy, regardless of when the ballot vacancy occurred, if the vice committeeman was the vice committeeman five (5) days before the date of the caucus.

(d) If a vice committeeman is not eligible under subsection (c), the vice committeeman is eligible to participate in a caucus held under this chapter and vote the precinct committeeman's proxy only if the vice committeeman was the vice committeeman thirty (30) days before the ballot vacancy occurred.

SECTION 31. IC 3-13-11-11, AS AMENDED BY P.L.38-1999, SECTION 68, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. **(a)** No later than noon five (5) days after:

(1) the selection required by section 10 of this chapter; or

(2) a selection under section 5(c) of this chapter;

the chairman shall certify the pro tempore appointment results to the circuit court clerk of the county in which the greatest percentage of the population of the election district is located.

(b) This subsection applies to the selection of an individual for an appointment pro tempore as judge of a town court, prosecuting attorney, circuit court clerk, county auditor, county recorder, county treasurer, county sheriff, county coroner, or county surveyor. The clerk shall forward a copy of the certificate to the election division. The election division shall prepare a commission for issuance under IC 4-3-1-5 in the same manner that the election division prepares a commission following the election of an individual to the office.

(c) This subsection applies to the selection of an individual for an appointment pro tempore to a local office not described in subsection (b). The clerk shall file the certificate in the clerk's office in the same manner as certificates of election are filed. Within

twenty-four (24) hours after the certificate is filed, the clerk shall issue a copy of the certificate to the individual named in the certificate.

SECTION 32. IC 5-4-1-1.2, AS AMENDED BY P.L.176-1999, SECTION 120, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE NOVEMBER 1, 1999 (RETROACTIVE)]: Sec. 1.2. (a) This section does not apply to an individual appointed or elected to an office the establishment or qualifications of which are expressly provided for in the Constitution of the State of Indiana or the Constitution of the United States.

(b) If Subject to subsection (c), an officer individual appointed or elected to an office of a political subdivision does not take and file may take the oath required under section 1 of this chapter within at any time after the individual's appointment or election.

(c) An individual appointed or elected to an office of a political subdivision must take the oath required by section 1 of this chapter and deposit the oath as required by section 4 of this chapter not later than thirty (30) days after the beginning of the officer's term of office.

(d) If an individual appointed or elected to an office of a political subdivision does not comply with subsection (c), the office becomes vacant.

SECTION 33. IC 5-6-1-2, AS AMENDED BY P.L.176-1999, SECTION 123, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 10, 1999 (RETROACTIVE)]: Sec. 2. (a) ~~This section~~ **Subsection (b)** does not apply to the deputy of a circuit court clerk.

(b) Deputies shall take the oath required of their principals. ~~and~~

(c) A deputy may perform all the official duties of such principals, the deputy's principal, being subject to the same regulations and penalties.

SECTION 34. IC 5-8-3.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) ~~Officers~~ **An officer who wants to resign shall give written notice of their the officer's resignation as follows:**

(1) The governor and lieutenant governor shall notify the ~~general assembly if it is in session. If the general assembly is not in session, they shall notify~~ **principal clerk of the house of representatives and the principal secretary of the senate to act**

in accordance with Article 5, Section 10 of the Constitution of the State of Indiana. The clerk and the secretary shall file a copy of the notice with the office of the secretary of state.

(2) ~~Members~~ **A member** of the general assembly shall notify the governor, and in addition: **following, whichever applies:**

(A) ~~members~~ **A member** of the senate shall notify the president pro tempore of the senate. ~~and~~

(B) ~~members~~ **A member** of the house of representatives shall notify the speaker of the house **of representatives.**

(3) ~~All~~ **The following** officers commissioned by the governor under IC 4-3-1-5 shall notify the governor:

(A) **An elector or alternate elector for President and Vice President of the United States.**

(B) **The secretary of state, auditor of state, treasurer of state, superintendent of public instruction, attorney general, or clerk of the supreme court.**

(C) **An officer elected by the general assembly, the senate, or the house of representatives.**

(D) **A justice of the Indiana supreme court, judge of the Indiana court of appeals, or judge of the Indiana tax court.**

(E) **A judge of a circuit, city, county, probate, superior, town, or township small claims court.**

(F) **A prosecuting attorney.**

(G) **A circuit court clerk.**

(H) **A county auditor, county recorder, county treasurer, county sheriff, county coroner, or county surveyor.**

(4) ~~All officers entitled to receive a certificate of election from the clerk of the circuit court under IC 3-12-4 or IC 3-12-5 or from a town clerk-treasurer under IC 3-10-7-34~~ **An officer of a political subdivision (as defined by IC 36-1-2-13) other than an officer listed in subdivision (3) shall notify the clerk of the circuit court or the town clerk-treasurer: clerk of the county containing the largest percentage of population of the political subdivision.**

(5) ~~All county officers shall notify the board or council having the power to appoint a successor or that would have the power if IC 3-13-7-1 did not apply.~~

(6) ~~All city, town, or township officers shall notify the board, council, or individual having power to appoint a successor if~~

~~IC 3-13-8-1, IC 3-13-9-1, or IC 3-13-10-1 did not apply.~~

~~(7) All other officers~~ **(5) An officer not listed in subdivisions (1) through (4)** shall notify the ~~officer, board, person or court entity~~ from whom ~~they the officer~~ received their ~~the officer's~~ appointment.

~~(b) An officer, a board, A person or a court an entity~~ that receives notice of a resignation and does not have the power to fill the vacancy created by the resignation shall, ~~within not later than~~ **seventy-two (72)** hours after receipt of the notice of resignation, give notice of the vacancy to the ~~officer, board, person or court entity~~ that has the power to:

- (1) fill the vacancy; or
- (2) call a caucus for the purpose of filling the vacancy.

SECTION 35. IC 20-3-21-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. **IC 20-4-10.1 does not apply to a school corporation or the governing body of a school corporation covered by this chapter.** ~~applies to a school corporation for which a referendum has been held:~~

- ~~(1) as required by statute; and~~
- ~~(2) in which a majority of the votes cast approve electing the members of the governing body.~~

SECTION 36. IC 20-3-21-11 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE UPON PASSAGE]: **Sec. 11. Before August 1 of each year, the school corporation shall file with the state superintendent of public instruction a list of the:**

- (1) names and addresses of members of the school corporation's governing body;**
- (2) names and addresses of the school corporation's officers; and**
- (3) expiration dates of the terms of the school corporation's members and officers.**

The school corporation shall file any changes in the list within thirty (30) days after the changes occur.

SECTION 37. IC 20-4-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 7. Any plan creating a united school corporation from existing school corporations which are each entirely located in one (1) county shall, except as provided, be

prepared by joint action of the county committees of the counties in which the respective school corporations are situated. Any such plan, for the purpose of submission to the state board as provided, shall be included in the comprehensive plan of the county which has the largest number of pupils residing in the proposed united school corporation. However, in instances when any such existing school corporation contains territory in two (2) or more counties the county committee of the county containing that portion of the school corporation having the most pupils shall include the entire corporation within its plan in the absence of a written agreement with the adjoining county committee to the contrary. and provided that an existing school corporation; adjoining another county; or located in two (2) or more counties; shall for all purposes of this chapter be released from the jurisdiction of the county committee of the county otherwise provided herein and be placed under the jurisdiction of the county committee of any other county which it joins or of which it is a part, subject to acceptance by the latter county committee; by complying with the following procedure:

(a) Within sixty (60) days after March 14, 1963, fifteen percent (15%) or more of the registered voters of any existing school corporation shall file a petition addressed to the county committee otherwise having jurisdiction of such school corporation under this chapter requesting that their particular school corporation be released to such other county committee for inclusion in its plan with the clerk of the circuit court in each county where said registered voters of such school corporation reside:

(b) After the receipt of the petition, each such clerk shall make a certification under the clerk's hand and seal of office as to:

(1) the number of persons signing the petition;

(2) the number of such persons who are registered voters residing within the boundaries of the particular school corporation or that part of the particular school corporation located within this county, as disclosed by the voter registration records;

(3) the number of registered voters residing within the boundaries of the particular school corporation or that part of the particular school corporation located within the county, as disclosed in the records in subdivision (1); and

- (4) the date of the filing of such petition with the clerk.
- (c) The petition shall show:
 - (1) the name of the county committee from which release is requested;
 - (2) the name of the county committee invited to accept jurisdiction;
 - (3) the name of the school corporation within which the registered voters reside;
 - (4) a general description of the area to be released; and
 - (5) the date on which each person has signed the petition and that person's residence on such date.

The petition may be executed in several counterparts; the total of which shall constitute the petition authorized by this subsection. Each such counterpart shall have attached thereto the affidavit of the person circulating said counterpart that each signature appearing on such counterpart was affixed in that person's presence and is the true and lawful signature of the person who made such signature. Each signer of the petition shall be privileged prior to, but shall not be entitled after, such filing with the clerk of the circuit court, to withdraw the signer's name from the petition. No names shall be added to the petition after the petition has been filed with any such clerk.

(d) Such certification shall be made by such clerk within thirty (30) days after the filing of the petition, excluding from the calculation of such period any time during which the registration records are unavailable to such clerk, or within any additional time as is reasonably necessary to permit such clerk to make such certification. Such clerk shall establish a record of the certification in the clerk's office and shall send the petition by mail or otherwise with the certification thereon to each county committee concerned. If the certification or combined certifications received from the clerk or clerks disclose that fifteen percent (15%) or more of the registered voters residing within the boundaries of the school corporation have signed the petition, the county committee requested in such petition to accept such territory for inclusion in its reorganization plan shall, within thirty (30) days after receipt of such certification or certifications, take action by majority vote specifying whether or not it will accept

jurisdiction of such school corporation or part thereof; and send a notification of such action by mail or otherwise to the county committee from which release was sought; to the judge of the circuit court of the same county and to the state board. Failure to send notice within such thirty (30) day period shall constitute action rejecting such jurisdiction.

(e) Upon receipt of such notification that the county committee accepts jurisdiction; the judge of the circuit court shall order the county election board to conduct a special election of the registered voters residing within the boundaries of such school corporation with respect to which such petition has been filed. Such election shall be held not earlier than thirty (30) days nor later than ninety (90) days after the judge has received such notification. The county election board shall give notice of such special election by publication in one (1) newspaper of general circulation published in such school corporation; which notice shall be given not less than ten (10) days nor more than fifteen (15) days prior to such election. If a newspaper of general circulation is not published in the school corporation; the board shall publish the notice in at least one (1) newspaper having general circulation in the school corporation. No other notice of such election; whether prescribed by IC 3 or otherwise; need be given. Such notice shall be in the form prescribed by the county election board; shall state that the election is called for the purpose of affording the registered voters an opportunity to approve or reject a proposal that the school corporation be changed from the jurisdiction of one county committee to another; and shall also designate the time and voting place or places at which the election shall be held.

(f) Such special election shall be under the direction of the county election board of the county in which such circuit court is located. If the voters reside in two (2) or more counties; the election board in each county shall cooperate in conducting such election. If the special election is not conducted at a primary or general election; the cost of conducting the election shall be charged to the school corporation and shall be paid from any current operating fund not otherwise appropriated without appropriation therefor. The county election board shall place the public question on the ballot in the

form prescribed by IC 3-10-9-4. The public question must state "Shall jurisdiction of the (here insert name of school corporation) be changed from the _____ County Committee for the Reorganization of School Corporations to the _____ County Committee for the Reorganization of School Corporations?": Except as otherwise provided, the election shall be governed by IC 3. The change in jurisdiction shall take effect if at the time it receives the affirmative vote of a majority of the voters voting at such special election:

(g) All petitions submitted to any county committee before March 15, 1963, requesting that all or a part of the petitioner's particular township, city, or town be included in the reorganization plan of an adjacent county are hereby declared void, except in any instance involving a petition covering an entire existing school corporation where no comprehensive plan has been submitted by the county committee to the state board or where community school corporations have been created which include the areas so petitioned:

SECTION 38. IC 20-4-1-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 21. (a) If no such certification or combined certifications, thus creating any such community school corporation, are received within ninety (90) days after the receipt of such plan by the chairman of the county committee, the judge of the circuit court of the county, from which the county committee submitting the plan was appointed, shall certify the public question under IC 3-10-9-3 and order the county election board to conduct a special election of the registered voters residing within the boundaries of such proposed community school corporation to determine whether such community school corporation shall be created **and shall certify the question under IC 3-10-9-3.** If a primary or general election at which county officials are nominated or elected and for which the question can be certified in compliance with IC 3-10-9-3 is to be held within six (6) months after the receipt of such plan by the chairman of the county committee, whether or not such ninety (90) days has expired, the judge shall order the county election board to conduct the special election to be held in conjunction with any such primary or general election. If no such primary or general election is to be held within such six (6) month period, then such special election

shall be held not earlier than ~~thirty (30)~~ **sixty (60)** days nor later than one hundred twenty (120) days after the expiration of such ninety (90) day period.

(b) Notice of such special election shall be given by the county election board ~~by publication in one (1) newspaper of general circulation published in the community school corporation. If no newspaper is published in the corporation, then the notice shall be published in a newspaper, or newspapers if necessary, having a general circulation in such community school corporation, which notice shall be given not less than ten (10) days nor more than fifteen (15) days prior to the election. No other notice of such election, whether prescribed by IC 3 or otherwise, need be given.~~ **under IC 5-3-1.**

(c) Such notice of such special election shall clearly state that the election is called for affording the registered voters an opportunity to approve or reject a proposal for the formation of a community school corporation and shall also contain a general description of the boundaries of the community school corporation as set out in the plan, a statement of the terms of adjustment of property, assets, debts, and liabilities of any existing school corporation where it is to be divided, the name of the community school corporation, the number of members comprising the board of school trustees, and the method of selecting the board of school trustees of the community school corporation. The notice shall also designate the time and voting place or places at which the election will be held.

(d) Such special election shall be under the direction of the county election board in the county. Such election board shall take all steps necessary to carry out the election provided for in this section. If the special election is not conducted at a primary or general election, the cost of conducting the election shall be charged to each component school corporation embraced in the community school corporation in the same proportion as its assessed valuation is to the total assessed valuation of the community school corporation, and shall be paid from any current operating fund not otherwise appropriated, without appropriation therefor by the respective school corporations. Where a component school corporation is to be divided and its territory assigned to two (2) or more community corporations its cost of the election shall be in proportion to its assessed valuation included in the community school corporation.

(e) The county election board shall place the public question on the ballot in the form prescribed by IC 3-10-9-4. The public question must state "Shall the (here insert name) community school corporation be formed as provided in the Reorganization Plan of the County Committee for the Reorganization of School Corporations?". Except as otherwise provided in this chapter, the election shall be governed by IC 3.

(f) If a majority of the votes cast at such special election on such question are in favor of the formation of such corporation, a community school corporation shall be created and come into being on July 1 or January 1 following the date of publication of said notice, whichever date is the earlier. In the event any public official shall fail to do the official's duty within the time prescribed in this section, this omission shall not invalidate the proceedings taken under this section. No action to contest the validity of the formation or creation of a community school corporation under this section to declare that it has not been validly formed or created or is not validly existing, or to enjoin its operation, shall be instituted at any time later than the thirtieth day following such election.

SECTION 39. IC 20-4-8-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 12. (a) In any county or adjoining counties at least two (2) school corporations, including but not limited to school townships, school towns, school cities, consolidated school corporations, joint schools, metropolitan school districts, or township school districts, community school corporations, regardless of whether such consolidating school corporations are of the same or of a different character, may consolidate into one (1) metropolitan school district. Subject to subsection (h), the consolidation shall be initiated by following either of the following procedures:

(1) The township trustee, board of school trustees, board of education, or other governing body (such trustee, board or other governing body being referred to elsewhere in this section as the "governing body") of each school corporation to be consolidated shall:

(A) adopt substantially identical resolutions providing for the consolidation; and

(B) publish a notice setting out the text of the resolution one

- (1) time in ~~one~~ ~~(1)~~ newspaper:
- (i) ~~published and of general circulation in each respective school corporation; or~~
 - (ii) ~~of general circulation in each respective school corporation if a newspaper is not published within the school corporation.~~ **under IC 5-3-1.**

The resolution must set forth any provision for staggering the terms of the board members of the metropolitan school district elected under this chapter. If not more than thirty (30) days following such publication a petition of protest, signed by at least twenty percent (20%) of the registered voters residing in such school corporation, is filed with the clerk of the circuit court of each county where the voters who are eligible to sign the petition reside, a referendum election shall be held as provided in subsection (c).

(2) Instead of the adoption of substantially identical resolutions in each of the proposed consolidating school corporations as described in subdivision (1), a referendum election under subsection (c) shall be held on the occurrence of all of the following:

- (A) At least twenty percent (20%) of the registered voters residing in a particular school corporation sign a petition requesting that the school corporation consolidate with another school corporation (referred to in this subsection as "the responding school corporation").
- (B) The petition described in clause (A) is filed with the clerk of the circuit court of each county where the voters who are eligible to sign the petition reside.
- (C) Not more than thirty (30) days after the service of the petition by the clerk of the circuit court to the governing body of the responding school corporation under subsection (b) and the certification of signatures on the petition occurs under subsection (b), the governing body of the responding school corporation adopts a resolution approving the petition and providing for the consolidation.
- (D) An approving resolution has the same effect as the substantially identical resolutions adopted by the governing bodies under subdivision (1) and the governing bodies shall

publish the notice provided under subdivision (1) not more than fifteen (15) days after the approving resolution is adopted. However, if a governing body that is party to the consolidation fails to publish notice within the required fifteen (15) day time period, a referendum election still must be held as provided in subsection (c).

If the governing body of the responding school corporation does not act on the petition within the thirty (30) day time period described in clause (C), the governing body's inaction constitutes a disapproval of the petition request. If the governing body of the responding school corporation adopts a resolution disapproving the petition or fails to act within the thirty (30) day time period, a referendum election as described under subsection (c) may not be held and the petition requesting the consolidation is defeated.

(b) Any petition of protest under subsection (a)(1) or a petition requesting consolidation under subsection (a)(2) shall show therein the date on which each person has signed the petition and the person's residence on such date. The petition may be executed in several counterparts, the total of which shall constitute the petition. Each such counterpart shall contain the names of voters residing within a single county and shall be filed with the clerk of the circuit court of such county. Each such counterpart shall have attached thereto the affidavit of the person circulating said counterpart that each signature appearing on such counterpart was affixed in that person's presence and is the true and lawful signature of each person who made such signature. Any signer may file such petition or any counterpart thereof. Each signer on the petition shall be privileged prior to, but shall not be entitled after, such filing with such clerk, to withdraw the signer's name from the petition. No names shall be added to the petition after the petition has been filed with the clerk. After the receipt of any counterpart of the petition, each circuit court clerk shall certify:

- (1) the number of persons signing the counterpart;
- (2) the number of such persons who are registered voters residing within that part of such school corporation located within the clerk's county, as disclosed by the voter registration records in the office of the clerk or the board of registration of the county, or wherever such registration records may be kept;
- (3) the total number of registered voters residing within the

boundaries of that part of such school corporation located within the county, as disclosed in the voter registration records; and

(4) the date of the filing of such petition.

Such certification shall be made by each such clerk within thirty (30) days after the filing of the petition, excluding from the calculation of such period any time during which the registration records are unavailable to such clerk, or within any additional time as is reasonably necessary to permit such clerk to make such certification. In certifying the number of registered voters the clerk shall disregard any signature on such petition not made within the ninety (90) days immediately prior to the filing of the petition with the clerk as shown by the dates set out in the petition. Such clerk shall establish a record of the certification in the clerk's office and shall serve the original petition and a copy of the certification on the **county election board under IC 3-10-9-3 and the** governing bodies of each affected school corporation. The service shall be made by mail or manual delivery to the governing bodies, to any officer thereof or to the administrative office of the governing bodies, if any, and shall be made for all purposes hereunder on the day of the mailing or the date of the manual delivery.

(c) The county election board in each county where the proposed metropolitan school district is located, acting jointly where the proposed metropolitan school district is created and where it is located in more than one (1) county, shall cause any referendum election required under either subsection (a)(1) or subsection (a)(2) to be held in the entire proposed metropolitan district at a special election. The special election shall be not less than ~~thirty (30)~~ **sixty (60)** days and not more than ninety (90) days after the service of the petition of protest and certification by each clerk as provided in subsection (a)(1) or (a)(2) or after the occurrence of the first action requiring a referendum under subsection (a)(2). In the event, however, a primary or general election at which county officials are to be nominated or elected, or at which city or town officials are to be elected in those areas of the proposed metropolitan school district which are within the city or town, is to be held after the ~~thirty (30)~~ **sixty (60)** days and within six (6) months of the service or the occurrence of the first action, then each election board may hold the referendum election in conjunction with the primary or general election.

(d) Notice of the special election shall be given by each election

board by publication ~~one (1) time in two (2) newspapers published and of general circulation in the proposed metropolitan school district; or if only one (1) newspaper is published and of general circulation; then in that newspaper; or if there is no such newspaper; then in the newspaper as is necessary so that there is a publication in a newspaper of general circulation in the proposed metropolitan school district. The publication shall be made not less than ten (10) days or more than forty-five (45) days prior to the election. No other notice of the election and no requirement as to the time of printing ballots; whether prescribed by IC 3 or otherwise; need be given or observed.~~ **under IC 5-3-1.**

(e) Except where it conflicts with the special provisions of this section or cannot be practicably applied, IC 3 applies to the conduct of the special election. If the special election is not conducted at a primary or general election, the cost of conducting the election shall be charged to each component school corporation included in the proposed metropolitan school district in the same proportion as its assessed valuation bears to the total assessed valuation of the proposed metropolitan school district and shall be paid from any current operating fund of each component school corporation not otherwise appropriated, without appropriation therefor.

(f) The question in the referendum election shall be placed on the ballot in the form prescribed by IC 3-10-9-4 and must state "Shall the school corporations of _____ be formed into one (1) metropolitan school district under IC 20-4-8?" (in which blanks the respective name of the school districts concerned will be inserted).

(g) If:

- (1) a protest petition with the required signatures is not filed subsequent to the adoption of substantially identical resolutions of the governing bodies providing for or approving the consolidation as described in subsection (a)(1); or
- (2) a referendum election occurs in the entire proposed metropolitan district and a majority of the voters in each proposed consolidating school corporation vote in the affirmative;

a metropolitan school district shall be created and come into existence in the territory subject to the provisions and under the conditions described in this chapter. The boundaries include all of the territory within the school corporations, and it shall be known as "Metropolitan

School District of _____, Indiana" (in which blank will be inserted the name of the district concerned). The name of the district shall be decided by a majority vote of the metropolitan board of education of the metropolitan school district at the first meeting. The metropolitan board of education of the new metropolitan school district shall be composed and elected in the manner provided in this chapter. The failure of any public official or body to perform any duty within the time limits provided in this chapter shall not invalidate any proceedings taken by that official or body, but this provision shall not be construed to authorize a delay in the holding of any referendum election provided in this chapter.

(h) If the governing body of a school corporation is involved in a consolidation proposal under subsection (a)(1) or (a)(2) that fails to result in a consolidation, the:

- (1) governing body of the school corporation may not initiate a subsequent consolidation with another school corporation under subsection (a)(1); and
- (2) residents of the school corporation may not file a petition requesting a consolidation with another school corporation under subsection (a)(2);

before one (1) year from the date on which the prior consolidation proposal failed.

SECTION 40. IC 20-4-10.1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this chapter, the following terms shall have the following meanings:

(a) "School corporation" shall mean any local public school corporation established under the laws of ~~the state of~~ Indiana. ~~excluding, however,~~ **The term does not include a school townships township or a school corporation covered by IC 20-3-21.**

(b) "Governing body" shall mean the board or commission charged by law with the responsibility of administering the affairs of a school corporation.

~~(d)~~ (c) "Plan" shall mean the manner in which the governing body of a school corporation is constituted, including, but not limited to, the number, qualifications, length of terms, manner, and time of selection (whether by appointment or by election) of the members of the governing body.

~~(e)~~ (d) "Clerk of the circuit court" or "clerk" shall mean the clerk of

the circuit court of the county in which a school corporation is located. Where the school corporation is located in more than one (1) county, such term shall refer to the clerks in each of the several counties in which the school corporation is located.

~~(f)~~ (e) "County election board" shall mean the county election board in the county in which the school corporation is located. Where the school corporation is located in more than one (1) county, it shall mean the county election boards of the counties in which the school corporation is located, acting jointly.

~~(g)~~ (f) "Judge of the circuit court" and the "circuit court" shall mean the judge of the circuit court and the circuit court of the county, respectively, in which the school corporation is located. Where it is located in more than one (1) county, such terms shall refer to the judge of the circuit court and the circuit court of the county in which the largest number of registered voters of the school corporation are residents.

~~(h)~~ (g) "Voter", with respect to any petition, shall mean a registered voter in the school corporation as determined in this chapter.

SECTION 41. IC 21-1-1-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 16. ~~They shall have power, when directed so to do by a vote, or~~ **The township executive may**, by the written direction of a majority of the voters of the congressional township to which the same belongs, ~~to~~ lease such lands for any term not exceeding seven (7) years, reserving rents, payable in money, property, or improvements upon the land, as may be directed by the majority of such voters.

SECTION 42. IC 21-1-1-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 17. When the sixteenth section or the section which may be granted ~~in lieu thereof, shall be~~ **instead of the sixteenth section is** divided by a county or civil township line, or where the substituted section lies in any other county in the state, the ~~voters of the congressional township~~ **county executive** to which the ~~same~~ **greatest percentage of population of the congressional township** belongs shall designate, ~~by vote or~~ by the written direction of a majority, the trustee of one (1) of the civil townships including a part of ~~said the~~ section to have the care and custody of ~~said the~~ section and to carry out the directions of the voters of the township. ~~in relation thereto; and~~ The trustee so designated shall

have the same powers and perform the same duties as if the entire section was situated within the limits of the civil township and receive from the county treasurer the revenue derived from funds accrued from ~~said the~~ sale.

SECTION 43. IC 21-1-1-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 25. ~~Such~~ **The** certificate ~~and return~~ shall, by such auditor, be laid before the board of county commissioners, at their first meeting thereafter. ~~and said~~ **The** board, if satisfied that the requirements of the law have been substantially complied with, shall direct such lands to be sold. ~~which~~ **The** sale shall be conducted as follows:

~~First:~~ **(1)** It shall be made by the auditor and treasurer.

~~Second:~~ **(2)** Four (4) weeks' notice of the same shall be given, by posting notices thereof in three (3) public places of the township where the land is situated, and at the court-house door, and by publication in a newspaper printed in said county; if any = otherwise; in a newspaper of any county in the state situated nearest thereto: **under IC 5-3-1.**

The sale shall be made by the auditor, at public auction, at the door of the court-house of the county in which the land is ~~situate~~: ~~and~~ **situated**. The treasurer shall take an account thereof, and each of said officers, for making such sale, shall receive a fee of one dollar (~~\$1.00~~); **(\$1)**, to be paid by the purchaser.

SECTION 44. IC 21-1-1-44 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 44. The voters of any congressional township may ~~in the absence of a vote to sell land; and in lieu thereof;~~ petition the trustee of the township for such sale. ~~and such~~ **The** petition, if signed by a majority of all the voters of the township, shall be filed with the county auditor, and the same proceeding shall be had as provided in section 43 of this chapter. ~~upon a vote of the inhabitants of the township for such sale:~~ Such petition and certificate shall be recorded in the record book of the trustee of the township and of the county auditor of the investment of funds held for the benefit of common schools and congressional townships.

SECTION 45. IC 36-1-8-10.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 10.5. (a) This section does not apply to the following:**

- (1) An elected or appointed officer.
- (2) An individual described in IC 20-5-3-11.
- (b) An employee of a political subdivision may:
 - (1) be a candidate for any elected office and serve in that office if elected; or
 - (2) be appointed to any office and serve in that office if appointed;

without having to resign as an employee of the political subdivision.

SECTION 46. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2000]: IC 3-11-15-18; IC 3-11-15-19; IC 3-11-15-27; IC 3-11-15-28; IC 3-11-15-29; IC 3-11-15-30; IC 3-11-15-31.

SECTION 47. [EFFECTIVE NOVEMBER 1, 1999 (RETROACTIVE)] (a) Notwithstanding IC 5-4-1-1.2, as amended by this act, an individual appointed or elected to an office of a political subdivision after November 1, 1999, and before July 1, 2000, does not vacate the office under IC 5-4-1-1.2, as amended by this act, if all of the following apply:

- (1) The individual took the oath required by IC 5-4-1-1 at any time after the individual's appointment or election.
- (2) The individual took the oath required by IC 5-4-1-1 not later than thirty (30) days after the beginning of the term of office.
- (3) The oath was deposited with the appropriate office not later than December 31, 2000, under IC 5-4-1-4, as in effect July 1, 2000.

(b) This SECTION expires January 1, 2004.

SECTION 48. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "school corporation" refers to a school corporation covered by IC 20-3-21, as amended by this act.

(b) Notwithstanding any other law, three (3) members of the school corporation shall be elected at the primary election held on May 2, 2000, under IC 20-3-21, as amended by this act.

(c) Notwithstanding IC 20-3-21-3, the member of the governing body appointed by the mayor of the largest city contained within the school corporation under IC 20-3-21-3(b)(2) shall first be appointed by the mayor after May 2, 2000, and before July 1, 2000.

(d) This SECTION expires July 1, 2002.

SECTION 49. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "committee" refers to the census data advisory

committee established by IC 2-5-19-2.

(b) Before January 1, 2001, the committee shall study the following:

(1) The standardization of municipal election calendars to conform to county, state, and federal elections, including the following possibilities:

(A) The elimination of town conventions under IC 3-8-5.

(B) The implementation of primaries for the nomination of candidates in small town elections.

(2) The elimination of municipal elections in odd-numbered years so that all municipal elections are held in even-numbered years with countywide elections.

Before January 1, 2001, the committee shall make recommendations regarding these subjects to the legislative council as the committee considers necessary.

(c) This SECTION expires January 1, 2001.

SECTION 50. An emergency is declared for this act.



P.L.27-2000

[H.1030. Approved March 15, 2000.]

AN ACT to amend the Indiana Code concerning state and local administration.

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

SECTION 1. IC 5-2-1-15.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 15.2. (a) The northwest Indiana law enforcement training center may provide basic training to a law enforcement officer who is:

(1) employed by a law enforcement agency that is a member agency of the northwest Indiana law enforcement training center; and

(2) not accepted by the law enforcement academy for the next basic training course because the academy does not have a space

for the officer in the next basic training course.
(b) This section expires July 1, 2000.

P.L.28-2000
[H.1031. Approved March 15, 2000.]

AN ACT concerning railroads.

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

SECTION 1. [EFFECTIVE UPON PASSAGE] (a) The rail corridor safety committee is established.

(b) The committee consists of eight (8) members as follows:

(1) Four (4) members of the house of representatives appointed by the speaker of the house of representatives. Not more than two (2) members appointed under this subdivision may represent the same political party.

(2) Four (4) members of the senate appointed by the president pro tempore of the senate. Not more than two (2) members appointed under this subdivision may represent the same political party.

(c) The chairman of the legislative council shall designate one (1) member of the committee to be chairperson of the committee.

(d) Each member of the committee appointed under subsection (b)(1) or (b)(2) is entitled to receive the same per diem, mileage, and travel allowances paid to members of the general assembly serving on legislative study committees established by the legislative council.

(e) The committee shall do the following:

(1) Study the safety of rail corridors, including corridors at overpasses, underpasses, and crossings.

(2) Review railroad safety records.

(3) Study methods of encouraging cooperation among the railroads, local government, state government, and federal government to enhance the safety of railroads.

(4) Study other topics as assigned by the legislative council.

(f) The committee shall issue a final report to the legislative council regarding the matters listed under subsection (e) before November 1, 2005.

(g) The committee is under the jurisdiction of the legislative council and shall operate under policies and procedures established by the legislative council.

(h) Staff and administrative support for the committee shall be provided by the legislative services agency.

(i) The affirmative votes of a majority of the voting members appointed to the committee are required for the committee to take action on any measure, including final reports.

(j) This SECTION expires November 1, 2005.

SECTION 2. An emergency is declared for this act.

P.L.29-2000

[H.1034. Approved March 15, 2000.]

AN ACT to amend the Indiana Code concerning motor vehicles.

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

SECTION 1. IC 9-18-4-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 7. (a) The bureau may:

- (1) prescribe forms; and
- (2) adopt rules;

to implement this chapter.

(b) The bureau shall place an identifying symbol on the face of the license or permit to indicate that an executed anatomical gift form is located on the back of the document.

(c) (b) A form prescribed under this section must include the information described in IC 9-18-2-16(b)(3).

SECTION 2. IC 9-24-17-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 1. A nonprobationary driver's license and an identification card issued

under IC 9-24-16 must contain a form by which the applicant may make an anatomical gift under IC 29-2-16.

SECTION 3. IC 9-24-17-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 2. **(a)** The bureau shall verbally ask every individual who applies for a ~~nonprobationary~~ driver's license **or an identification card issued under IC 9-24-16** whether the individual desires to make an anatomical gift.

(b) If the individual does **desire to make an anatomical gift**, the bureau shall assist the individual in completing the form by which the individual makes the gift.

SECTION 4. IC 9-24-17-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 7. (a) ~~Upon request the bureau shall make available to an individual who is less than eighteen (18) years of age an anatomical gift card that identifies the individual as an organ donor. Before issuing an individual who is less than eighteen (18) years of age may make an anatomical gift, card;~~ the bureau must obtain and document the consent required under section 8 of this chapter and the consent of the individual's parent or guardian.

(b) The bureau may charge a fee to an individual ~~obtaining making~~ an anatomical gift ~~card~~ under ~~subsection (a)~~ **section 1 of this chapter**. The fee must equal an amount necessary to cover the cost of making available ~~the anatomical~~ **a document that acknowledges the making of the gift. card.**

SECTION 5. IC 9-24-17-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 8. (a) Each anatomical gift made under this chapter must be signed by the donor. If the donor cannot sign, the document may be signed for the donor:

- (1) at the donor's direction and in the donor's presence; and
- (2) in the presence of two (2) witnesses who must sign the document in the donor's and each other's presence.

(b) The card must state that the document was signed in accordance with this section.

(c) The bureau shall place an identifying symbol on the face of the license or identification card to indicate that an executed document acknowledging the making of an anatomical gift is located on the back of the license or identification card.

~~(c)~~ **(d)** If a document of gift is attached to or imprinted on a donor's

motor vehicle ~~operator's or chauffeur's~~ **driver's license or identification card issued under IC 9-24-16**, the document of gift must comply with this section. Revocation, suspension, ~~expiration~~, or cancellation of the license **or expiration of the license or identification card** does not invalidate the anatomical gift.

SECTION 6. IC 29-2-16-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 2. (a) Any individual:

- (1) of sound mind and eighteen (18) years of age or more; or
- (2) less than eighteen (18) years of age who obtains ~~an anatomical gift and~~ **the consent of the individual's parent or guardian as required** under IC 9-24-17-7;

may give all or any part of the individual's body for any purpose specified in section 3 of this chapter, the gift to take effect upon death. An individual may limit a gift made under this chapter or IC 9-24-17 to one (1) of the purposes specified in section 3 of this chapter. An individual may refuse to make a gift of all or part of the individual's body.

(b) Any of the following individuals, in order of priority stated when individuals in prior classes are not available at the time of death, and in the absence of actual notice of contrary indications by the decedent or actual notice of opposition by a member of the same or a prior class, may give all or any part of the decedent's body for any purpose specified in section 3 of this chapter:

- (1) the spouse;
- (2) a son or daughter, at least eighteen (18) years of age;
- (3) either parent;
- (4) a grandparent;
- (5) a brother or sister, at least eighteen (18) years of age; or
- (6) a guardian of the person of the decedent at the time of his death.

A gift made by an individual under this subsection may be revoked by an individual in the same or prior class as the individual making the gift, if the individual doing the removal of an organ receives notice of the revocation before the organ is removed. A failure to make a gift under this subsection is not an objection to the making of a gift, and an individual in a subsequent class may make a gift under this subsection.

(c) If the donee has actual notice of contrary indications by the

decedent or that a gift by a member of a class if opposed by a member of the same or a prior class, the donee shall not accept the gift. The individuals authorized by subsection (b) may make the gift after or immediately before death.

(d) A gift of all or part of a body authorizes any examination necessary to assure medical acceptability of the gift for the purposes intended.

(e) The rights of the donee created by the gift are paramount to the rights of others except as provided by section 7(d) of this chapter.

SECTION 7. IC 29-2-16-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 4. (a) A gift of all or part of the body under section 2(a) of this chapter may be made by will. The gift becomes effective upon the death of the testator without waiting for probate. If the will is not probated, or if it is declared invalid for testamentary purposes, the gift, to the extent that it has been acted upon in good faith, is nevertheless valid and effective.

(b) A gift of all or part of the body under section 2(a) of this chapter may also be made by document other than a will. The gift becomes effective upon the death of the donor. The document, which may be a card designed to be carried on the person, must be signed by the donor. If the donor cannot sign, the document may be signed by another for the donor:

- (1) at the donor's direction and in the donor's presence; and
- (2) in the presence of two (2) witnesses who must sign the document in the donor's presence and each other's presence.

The document must state that it has been signed in accordance with this subsection. Delivery of the document of gift during the donor's lifetime is not necessary to make the gift valid.

(c) The gift may be made to a specified donee or without specifying a donee. If the latter, the gift may be accepted by the attending physician as donee upon or following death. If the gift is made to a specified donee who is not available at the time and place of death, the attending physician upon or following death, in the absence of any expressed indication that the donor desired otherwise, may accept the gift as donee. The gift of an eye or part of an eye made without specifying a donee, or made to a donee who is not available at the time and place of death and without an expression of a contrary desire, may be accepted by the attending physician as donee on behalf of an eye

bank in Indiana. The physician who becomes a donee under this subsection shall not participate in the procedures for removing or transplanting a part.

(d) Notwithstanding section 7(b) of this chapter, the donor may designate in his will, card, or other document of gift the surgeon or physician to carry out the appropriate procedures. In the absence of a designation or if the designee is not available, the donee or other person authorized to accept the gift may employ or authorize any surgeon or physician for the purpose.

(e) After proper certification of death by a physician and compliance with the intent of the gift as determined by reference to this chapter:

(1) with respect to a gift of an eye or part of an eye, including the cornea or corneal tissue, the eye or part of the eye may be removed for the gift by:

(A) a physician licensed under IC 25-22.5; or

(B) an individual who is registered with the medical licensing board as a corneal excision technician; or

(2) with respect to a gift of a whole eye, the eye may be removed for the gift by:

(A) a physician licensed under IC 25-22.5;

(B) an individual who is registered with the medical licensing board as a corneal excision technician;

(C) an embalmer or a funeral director who, before September 1, 1983, completed a course in eye enucleation and was certified as competent to enucleate eyes by an accredited school of medicine; or

(D) an individual who is registered with the medical licensing board as an eye enucleator.

(f) A person who, in good faith reliance upon a will, card, or other document of gift, and without actual notice of the amendment, revocation, or invalidity of the will, card, or document:

(1) takes possession of a decedent's body or performs or causes to be performed surgical operations upon a decedent's body; or

(2) removes or causes to be removed organs, tissues, or other parts from a decedent's body;

is not liable in damages in any civil action brought against the donor for that act.

(g) Any gift by a person designated in section 2(b) of this chapter

shall be made by a document signed by the donor or made by the donor's telegraphic, recorded telephonic, or other recorded message.

(h) An individual may refuse to make a gift under this chapter or IC 9-24-17 of all or part of the individual's body by any of the following methods:

- (1) A writing signed in the same manner as a document under subsection (b).
- (2) A written statement attached to or imprinted on a person's anatomical gift card received from the bureau of motor vehicles under IC 9-24-17 and signed in the same manner as a gift under IC 9-24-17-8.
- (3) Any writing used to identify the individual as refusing to make an anatomical gift under this chapter.

During a terminal illness or injury, the refusal may be an oral statement or other form of communication.

(i) In the absence of a contrary indication by an individual, a gift under this chapter of a part of the individual's body is neither a refusal to give other parts of the body nor a limitation to give only part of the body under this chapter or IC 9-24-17.

(j) In the absence of a contrary indication by an individual, a revocation or an amendment under section 6 of this chapter is not a refusal to make another gift under this chapter. If an individual intends a revocation to be a refusal to make a gift under this chapter, the individual must make the refusal in accordance with subsection (h).

(k) A gift under this chapter or IC 9-24-17 that is not revoked before the donor dies is irrevocable.

(l) If a document of gift is attached to or imprinted on a donor's motor vehicle ~~operator's or chauffeur's~~ **driver's license or identification card issued under IC 9-24-16**, the document of gift must comply with this section. Revocation, suspension, ~~expiration~~, or cancellation of the license **or expiration of the license or identification card** does not invalidate the anatomical gift.

SECTION 8. IC 29-2-16-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 10. (a) As used in this section:

"Administrator" means a hospital administrator or a hospital administrator's designee.

"Gift" means a gift of all or any part of the human body made under

this chapter.

"Representative" means a person who is:

- (1) authorized under section 2(b) of this chapter to make a gift on behalf of a decedent; and
- (2) available at the time of the decedent's death when members of a prior class under section 2(b) of this chapter are unavailable.

(b) An administrator of each hospital or the administrator's designee may ask each patient who is at least eighteen (18) years of age if the patient is an organ or a tissue donor or if the patient desires to become an organ or a tissue donor.

(c) The governing board of each hospital shall adopt procedures to determine under what circumstances an administrator or an administrator's designee may ask a patient if the patient is an organ or a tissue donor or if the patient desires to become an organ or a tissue donor.

(d) The administrator shall inform the representative of the procedures available under this chapter for making a gift whenever:

- (1) an individual dies in a hospital;
- (2) the hospital has not been notified that a gift has been authorized under section 2 of this chapter; and
- (3) a physician determines that the individual's body may be suitable of yielding a gift.

(e) If:

- (1) an individual makes an anatomical gift on the individual driver's license **or identification card** under IC 9-24-17; and
- (2) the individual dies;

the person in possession of the individual driver's license **or identification card** shall immediately produce the driver's license **or identification card** for examination upon request, as provided in section 5 of this chapter.

(f) A gift made in response to information provided under this section must be documented as described under section 4(g) of this chapter.

(g) When a representative is informed under this section about the procedures available for making a gift, the fact that the representative was so informed must be noted in the decedent's medical record.

(h) A person who fails to discharge the duties imposed by this section is not subject to criminal or civil liability but may be subject to

administrative sanctions.

SECTION 9. IC 9-24-17-11 IS REPEALED [EFFECTIVE JULY 1, 2000].

P.L.30-2000
[H.1043. Approved March 15, 2000.]

AN ACT to amend the Indiana Code concerning labor and industrial safety.

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

SECTION 1. IC 22-4-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 3. (a) For calendar quarters beginning on and after April 1, 1979, and before April 1, 1984, "wage credits" means remuneration paid for employment by an employer to an individual. Wage credits may not exceed three thousand six hundred sixty-six dollars (\$3,666) and may not include payments specified in section 2(b) of this chapter.

(b) For calendar quarters beginning on and after April 1, 1984, and before April 1, 1985, "wage credits" means remuneration paid for employment by an employer to an individual. Wage credits may not exceed three thousand nine hundred twenty-six dollars (\$3,926) and may not include payments specified in section 2(b) of this chapter.

(c) For calendar quarters beginning on and after April 1, 1985, and before January 1, 1991, "wage credits" means remuneration paid for employment by an employer to an individual. Wage credits may not exceed four thousand one hundred eighty-six dollars (\$4,186) and may not include payments specified in section 2(b) of this chapter.

(d) For calendar quarters beginning on and after January 1, 1991, and before July 1, 1995, "wage credits" means remuneration paid for employment by an employer to an individual. Wage credits may not exceed four thousand eight hundred ten dollars (\$4,810) and may not include payments specified in section 2(b) of this chapter.

(e) For calendar quarters beginning on and after July 1, 1995, and

before July 1, 1997, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections ~~3301 and~~ 3102 **and 3301** et seq. of the Internal Revenue Code. Wage credits may not exceed five thousand dollars (\$5,000) and may not include payments specified in section 2(b) of this chapter.

(f) For calendar quarters beginning on and after July 1, 1997, and before July 1, 1998, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections ~~3301 and~~ 3102 **and 3301** et seq. of the Internal Revenue Code. Wage credits may not exceed five thousand four hundred dollars (\$5,400) and may not include payments specified in section 2(b) of this chapter.

(g) For calendar quarters beginning on and after July 1, 1998, and before July 1, 1999, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections ~~3301 and~~ 3102 **and 3301** et seq. of the Internal Revenue Code. Wage credits may not exceed five thousand six hundred dollars (\$5,600) and may not include payments that are excluded from the definition of wages under section 2(b) of this chapter.

(h) For calendar quarters beginning on and after July 1, 1999, **and before July 1, 2000**, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections ~~3301 and~~ 3102 **and 3301** et seq. of the Internal Revenue Code. Wage credits may not exceed five thousand eight hundred dollars (\$5,800) and may not include payments that are excluded from the definition of wages under section 2(b) of this chapter.

(i) For calendar quarters beginning on and after July 1, 2000, and before July 1, 2001, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3102 and 3301 et seq. of the Internal Revenue Code. Wage credits may not exceed six thousand seven hundred dollars (\$6,700) and may not include payments that are excluded from the definition of wages under section 2(b) of this chapter.

(j) For calendar quarters beginning on and after July 1, 2001,

and before July 1, 2002, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3102 and 3301 et seq. of the Internal Revenue Code. Wage credits may not exceed seven thousand three hundred dollars (\$7,300) and may not include payments that are excluded from the definition of wages under section 2(b) of this chapter.

(k) For calendar quarters beginning on and after July 1, 2002, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3102 and 3301 et seq. of the Internal Revenue Code. Wage credits may not exceed seven thousand nine hundred dollars (\$7,900) and may not include payments that are excluded from the definition of wages under section 2(b) of this chapter.

SECTION 2. IC 22-4-11-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 3. (a) Except as provided in ~~section 3.1~~ section 3.2 of this chapter, the applicable schedule of rates for the calendar year 1983 and thereafter shall be determined by the ratio resulting when the balance in the fund as of the determination date is divided by the total payroll of all subject employers for the immediately preceding calendar year. Schedule A, B, C, or D, appearing on the line opposite the fund ratio in the schedule below, shall be applicable in determining and assigning each employer's contribution rate for the calendar year immediately following the determination date. For the purposes of this subsection, "total payroll" means total remuneration reported by all contributing employers as required by this article and does not include the total payroll of any employer who elected to become liable for payments in lieu of contributions (as defined in IC 22-4-2-32). For the purposes of this subsection, "subject employers" means those employers who are subject to contribution.

FUND RATIO SCHEDULE

When the Fund Ratio Is:

As Much As	But Less Than	Applicable Schedule
	1.0%	A
1.0%	1.5%	B

1.5%	2.25%	C
2.25%		D

(b) If the conditions and requirements of section 2 of this chapter are met, the rate of contributions shall be determined and assigned, with respect to each calendar year, to employers whose accounts have a credit balance and who are eligible therefor according to each employer's credit reserve ratio. Each employer shall be assigned the contribution rate appearing in the applicable schedule A, B, C, or D on the line opposite his credit reserve ratio as set forth in the rate schedule below:

**RATE SCHEDULE FOR ACCOUNTS
WITH CREDIT BALANCES**

When the Credit Reserve Ratio Is:

As Much As	But Less Than	Rate Schedules (%)				
		A	B	C	D	E
3.0		1.2	0.2	0.2	0.2	0.15
2.8	3.0	1.4	0.4	0.2	0.2	0.15
2.6	2.8	1.6	0.6	0.2	0.2	0.15
2.4	2.6	1.8	0.8	0.4	0.2	0.2
2.2	2.4	2.0	1.0	0.6	0.2	0.2
2.0	2.2	2.2	1.2	0.8	0.4	0.4
1.8	2.0	2.4	1.4	1.0	0.6	0.6
1.6	1.8	2.6	1.6	1.2	0.8	0.8
1.4	1.6	2.8	1.8	1.4	1.0	1.0
1.2	1.4	3.0	2.0	1.6	1.2	1.2
1.0	1.2	3.2	2.2	1.8	1.4	1.4
0.8	1.0	3.4	2.4	2.0	1.6	1.6
0.6	0.8	3.6	2.6	2.2	1.8	1.8
0.4	0.6	3.8	2.8	2.4	2.0	2.0
0.2	0.4	4.0	3.0	2.6	2.2	2.2
0	0.2	4.2	3.2	2.8	2.4	2.4

(c) Each employer whose account as of any computation date occurring on and after June 30, 1984, shows a debit balance shall be assigned the rate of contributions appearing on the line opposite his debit ratio as set forth in the following rate schedule for accounts with debit balances:

RATE SCHEDULE FOR ACCOUNTS

WITH DEBIT BALANCES

When the Debit Reserve Ratio Is:

As Much	But Less Than	Rate Schedules (%)				
		A	B	C	D	E
	1.5	4.5	4.4	4.3	4.2	3.6
1.5	3.0	4.8	4.7	4.6	4.5	3.8
3.0	4.5	5.1	5.0	4.9	4.8	4.1
4.5	6.0	5.4	5.3	5.2	5.1	4.4
6.0		5.7	5.6	5.5	5.4	5.4

(d) Any adjustment in the amount charged to any employer's experience account made subsequent to the assignment of rates of contributions for any calendar year shall not operate to alter the amount charged to the experience accounts of any other base-period employers.

SECTION 3. IC 22-4-11-3.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 3.2. (a) For calendar year 2001, all employers shall have a contribution rate as set forth in rate schedule E in section 3 of this chapter.**

(b) For calendar year 2002, all employers shall have a contribution rate as set forth in rate schedule D in section 3 of this chapter.

(c) This section expires January 1, 2003.

P.L.31-2000

[H.1050. Approved March 15, 2000.]

AN ACT to amend the Indiana Code concerning labor and industrial safety.

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

SECTION 1. IC 22-3-2-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 13. Whenever an injury or death, for which compensation is payable under chapters 2 through

6 of this article shall have been sustained under circumstances creating in some other person than the employer and not in the same employ a legal liability to pay damages in respect thereto, the injured employee, or his dependents, in case of death, may commence legal proceedings against the other person to recover damages notwithstanding the employer's or the employer's compensation insurance carrier's payment of or liability to pay compensation under chapters 2 through 6 of this article. In that case, however, if the action against the other person is brought by the injured employee or his dependents and judgment is obtained and paid, and accepted or settlement is made with the other person, either with or without suit, then from the amount received by the employee or dependents there shall be paid to the employer or the employer's compensation insurance carrier, subject to its paying its pro-rata share of the reasonable and necessary costs and expenses of asserting the third party claim, the amount of compensation paid to the employee or dependents, plus the medical, surgical, hospital and nurses' services and supplies and burial expenses paid by the employer or the employer's compensation insurance carrier and the liability of the employer or the employer's compensation insurance carrier to pay further compensation or other expenses shall thereupon terminate, whether or not one (1) or all of the dependents are entitled to share in the proceeds of the settlement or recovery and whether or not one (1) or all of the dependents could have maintained the action or claim for wrongful death.

In the event the injured employee or his dependents, not having received compensation or medical, surgical, hospital or nurses' services and supplies or death benefits from the employer or the employer's compensation insurance carrier, shall procure a judgment against the other party for injury or death, which judgment is paid, or if settlement is made with the other person either with or without suit, then the employer or the employer's compensation insurance carrier shall have no liability for payment of compensation or for payment of medical, surgical, hospital or nurses' services and supplies or death benefits whatsoever, whether or not one (1) or all of the dependents are entitled to share in the proceeds of settlement or recovery and whether or not one (1) or all of the dependents could have maintained the action or claim for wrongful death.

In the event any injured employee, or in the event of his death, his

dependents, shall procure a final judgment against the other person other than by agreement, and the judgment is for a lesser sum than the amount for which the employer or the employer's compensation insurance carrier is liable for compensation and for medical, surgical, hospital and nurses' services and supplies, as of the date the judgment becomes final, then the employee, or in the event of his death, his dependents, shall have the option of either collecting the judgment and repaying the employer or the employer's compensation insurance carrier for compensation previously drawn, if any, and repaying the employer or the employer's compensation insurance carrier for medical, surgical, hospital and nurses' services and supplies previously paid, if any, and of repaying the employer or the employer's compensation insurance carrier the burial benefits paid, if any, or of assigning all rights under the judgment to the employer or the employer's compensation insurance carrier and thereafter receiving all compensation and medical, surgical, hospital and nurses' services and supplies, to which the employee or in the event of his death, which his dependents would be entitled if there had been no action brought against the other party.

If the injured employee or his dependents shall agree to receive compensation from the employer or the employer's compensation insurance carrier or to accept from the employer or the employer's compensation insurance carrier, by loan or otherwise, any payment on account of the compensation, or institute proceedings to recover the same, the employer or the employer's compensation insurance carrier shall have a lien upon any settlement award, judgment or fund out of which the employee might be compensated from the third party.

The employee, or in the event of his death, his dependents, shall institute legal proceedings against the other person for damages, within two (2) years after the cause of action accrues. If, after the proceeding is commenced, it is dismissed, the employer or the employer's compensation insurance carrier, having paid compensation or having become liable therefor, may collect in their own name, or in the name of the injured employee, or, in case of death, in the name of his dependents, from the other person in whom legal liability for damages exists, the compensation paid or payable to the injured employee, or his dependents, plus medical, surgical, hospital and nurses' services and supplies, and burial expenses paid by the employer or the employer's

compensation insurance carrier or for which they have become liable. The employer or the employer's compensation insurance carrier may commence an action at law for collection against the other person in whom legal liability for damages exists, not later than one (1) year from the date the action so commenced has been dismissed, notwithstanding the provisions of any statute of limitations to the contrary.

If the employee, or, in the event of his death, his dependents, shall fail to institute legal proceedings against the other person for damages within two (2) years after the cause of action accrues, the employer or the employer's compensation insurance carrier, having paid compensation, or having been liable therefor, may collect in their own name or in the name of the injured employee, or in the case of his death, in the name of his dependents, from the other person in whom legal liability for damage exists, the compensation paid or payable to the injured employee, or to his dependents, plus the medical, surgical, hospital and nurses' services and supplies, and burial expenses, paid by them, or for which they have become liable, and the employer or the employer's compensation insurance carrier may commence an action at law for collection against the other person in whom legal liability exists, at any time within one (1) year from the date of the expiration of the two (2) years when the action accrued to the injured employee, or, in the event of his death, to his dependents, notwithstanding the provisions of any statute of limitations to the contrary.

In actions brought by the employee or his dependents, he or they shall, within thirty (30) days after the action is filed, notify the employer or the employer's compensation insurance carrier by personal service or registered mail, of the action and the name of the court in which such suit is brought, filing proof thereof in the action.

The employer or the employer's compensation insurance carrier shall pay its pro rata share of all costs and reasonably necessary expenses in connection with asserting the third party claim, action or suit, including but not limited to cost of depositions and witness fees, and to the attorney at law selected by the employee or his dependents, a fee of twenty-five per cent (25%), if collected without suit, of the amount of benefits ~~which benefits shall consist of the amount of reimbursements,~~ **actually repaid** after the expenses and costs in connection with the third party claim have been deducted therefrom, and a fee of thirty-three and one-third per cent (33 1/3%), if collected

with suit, of the amount of benefits **actually repaid** after deduction of costs and reasonably necessary expenses in connection with the third party claim action or suit. The employer may, within ninety (90) days after receipt of notice of suit from the employee or his dependents, join in the action upon his motion so that all orders of court after hearing and judgment shall be made for his protection. An employer or his compensation insurance carrier may waive its right to reimbursement under this section and, as a result of the waiver, not have to pay the pro-rata share of costs and expenses.

No release or settlement of claim for damages by reason of injury or death, and no satisfaction of judgment in the proceedings, shall be valid without the written consent of both employer or the employer's compensation insurance carrier and employee or his dependents, except in the case of the employer or the employer's compensation insurance carrier, consent shall not be required where the employer or the employer's compensation insurance carrier has been fully indemnified or protected by court order.

SECTION 2. IC 22-3-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 4. (a) After an injury and prior to an adjudication of permanent impairment, the employer shall furnish or cause to be furnished, free of charge to the employee, an attending physician for the treatment of his injuries, and in addition thereto such surgical, hospital and nursing services and supplies as the attending physician or the worker's compensation board may deem necessary. If the employee is requested or required by the employer to submit to treatment outside the county of employment, the employer shall also pay the reasonable expense of travel, food, and lodging necessary during the travel, but not to exceed the amount paid at the time of the travel by the state to its employees under the state travel policies and procedures established by the department of administration and approved by the state budget agency. **If the treatment or travel to or from the place of treatment causes a loss of working time to the employee, the employer shall reimburse the employee for the loss of wages using the basis of the employee's average daily wage.**

(b) During the period of temporary total disability resulting from the injury, the employer shall furnish the physician services, and supplies, and the worker's compensation board may, on proper application of either party, require that treatment by the physician and services and

supplies be furnished by or on behalf of the employer as the worker's compensation board may deem reasonably necessary.

(c) After an employee's injury has been adjudicated by agreement or award on the basis of permanent partial impairment and within the statutory period for review in such case as provided in section 27 of this chapter, the employer may continue to furnish a physician or surgeon and other medical services and supplies, and the worker's compensation board may within the statutory period for review as provided in section 27 of this chapter, on a proper application of either party, require that treatment by that physician and other medical services and supplies be furnished by and on behalf of the employer as the worker's compensation board may deem necessary to limit or reduce the amount and extent of the employee's impairment. The refusal of the employee to accept such services and supplies, when provided by or on behalf of the employer, shall bar the employee from all compensation otherwise payable during the period of the refusal, and his right to prosecute any proceeding under IC 22-3-2 through IC 22-3-6 shall be suspended and abated until the employee's refusal ceases. The employee must be served with a notice setting forth the consequences of the refusal under this section. The notice must be in a form prescribed by the worker's compensation board. No compensation for permanent total impairment, permanent partial impairment, permanent disfigurement, or death shall be paid or payable for that part or portion of the impairment, disfigurement, or death which is the result of the failure of the employee to accept the treatment, services, and supplies required under this section. However, an employer may at any time permit an employee to have treatment for his injuries by spiritual means or prayer in lieu of the physician or surgeon and other medical services and supplies required under this section.

(d) If, because of an emergency, or because of the employer's failure to provide an attending physician or surgical, hospital, or nursing services and supplies, or treatment by spiritual means or prayer, as required by this section, or because of any other good reason, a physician other than that provided by the employer treats the injured employee during the period of the employee's temporary total disability, or necessary and proper surgical, hospital, or nursing services and supplies are procured within the period, the reasonable

cost of those services and supplies shall, subject to the approval of the worker's compensation board, be paid by the employer.

(e) Regardless of when it occurs, where a compensable injury results in the amputation of a body part, the enucleation of an eye, or the loss of natural teeth, the employer shall furnish an appropriate artificial member, braces, and prosthodontics. The cost of repairs to or replacements for the artificial members, braces, or prosthodontics that result from a compensable injury pursuant to a prior award and are required due to either medical necessity or normal wear and tear, determined according to the employee's individual use, but not abuse, of the artificial member, braces, or prosthodontics, shall be paid from the second injury fund upon order or award of the worker's compensation board. The employee is not required to meet any other requirement for admission to the second injury fund.

(f) If an accident arising out of and in the course of employment after June 30, 1997, results in the loss of or damage to an artificial member, a brace, an implant, eyeglasses, prosthodontics, or other medically prescribed device, the employer shall repair the artificial member, brace, implant, eyeglasses, prosthodontics, or other medically prescribed device or furnish an identical or a reasonably equivalent replacement.

(g) This section may not be construed to prohibit an agreement between an employer and the employer's employees that has the approval of the board and that binds the parties to:

- (1) medical care furnished by health care providers selected by agreement before or after injury; or
- (2) the findings of a health care provider who was chosen by agreement.

SECTION 3. IC 22-3-3-10, AS AMENDED BY P.L.235-1999, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 10. (a) With respect to injuries in the following schedule occurring prior to April 1, 1951, the employee shall receive in addition to temporary total disability benefits not exceeding twenty-six (26) weeks on account of the injuries, a weekly compensation of fifty-five percent (55%) of the employee's average weekly wages. With respect to injuries in the following schedule occurring on and after April 1, 1951, and prior to July 1, 1971, the employee shall receive in addition to temporary total disability benefits

not exceeding twenty-six (26) weeks on account of the injuries, a weekly compensation of sixty percent (60%) of the employee's average weekly wages. With respect to injuries in the following schedule occurring on and after July 1, 1971, and before July 1, 1977, the employee shall receive in addition to temporary total disability benefits not exceeding twenty-six (26) weeks on account of the injuries, a weekly compensation of sixty percent (60%) of the employee's average weekly wages not to exceed one hundred dollars (\$100) average weekly wages, for the periods stated for the injuries. With respect to injuries in the following schedule occurring on and after July 1, 1977, and before July 1, 1979, the employee shall receive, in addition to temporary total disability benefits not exceeding twenty-six (26) weeks on account of the injury, a weekly compensation of sixty percent (60%) of his average weekly wages, not to exceed one hundred twenty-five dollars (\$125) average weekly wages, for the period stated for the injury. With respect to injuries in the following schedule occurring on and after July 1, 1979, and before July 1, 1988, the employee shall receive, in addition to temporary total disability benefits not to exceed fifty-two (52) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred twenty-five dollars (\$125) average weekly wages, for the period stated for the injury. With respect to injuries in the following schedule occurring on and after July 1, 1988, and before July 1, 1989, the employee shall receive, in addition to temporary total disability benefits not exceeding seventy-eight (78) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred sixty-six dollars (\$166) average weekly wages, for the period stated for the injury.

With respect to injuries in the following schedule occurring on and after July 1, 1989, and before July 1, 1990, the employee shall receive, in addition to temporary total disability benefits not exceeding seventy-eight (78) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred eighty-three dollars (\$183) average weekly wages, for the period stated for the injury.

With respect to injuries in the following schedule occurring on and after July 1, 1990, and before July 1, 1991, the employee shall receive,

in addition to temporary total disability benefits not exceeding seventy-eight (78) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed two hundred dollars (\$200) average weekly wages, for the period stated for the injury.

(1) Amputation: For the loss by separation of the thumb, sixty (60) weeks, of the index finger forty (40) weeks, of the second finger thirty-five (35) weeks, of the third or ring finger thirty (30) weeks, of the fourth or little finger twenty (20) weeks, of the hand by separation below the elbow joint two hundred (200) weeks, or the arm above the elbow two hundred fifty (250) weeks, of the big toe sixty (60) weeks, of the second toe thirty (30) weeks, of the third toe twenty (20) weeks, of the fourth toe fifteen (15) weeks, of the fifth or little toe ten (10) weeks, and for loss occurring before April 1, 1959, by separation of the foot below the knee joint one hundred fifty (150) weeks and of the leg above the knee joint two hundred (200) weeks; for loss occurring on and after April 1, 1959, by separation of the foot below the knee joint, one hundred seventy-five (175) weeks and of the leg above the knee joint two hundred twenty-five (225) weeks. The loss of more than one (1) phalange of a thumb or toes shall be considered as the loss of the entire thumb or toe. The loss of more than two (2) phalanges of a finger shall be considered as the loss of the entire finger. The loss of not more than one (1) phalange of a thumb or toe shall be considered as the loss of one-half (1/2) of the thumb or toe and compensation shall be paid for one-half (1/2) of the period for the loss of the entire thumb or toe. The loss of not more than one (1) phalange of a finger shall be considered as the loss of one-third (1/3) of the finger and compensation shall be paid for one-third (1/3) the period for the loss of the entire finger. The loss of more than one (1) phalange of the finger but not more than two (2) phalanges of the finger, shall be considered as the loss of one-half (1/2) of the finger and compensation shall be paid for one-half (1/2) of the period for the loss of the entire finger.

(2) For the loss by separation of both hands or both feet or the total sight of both eyes, or any two (2) such losses in the same accident, five hundred (500) weeks.

(3) For the permanent and complete loss of vision by enucleation

or its reduction to one-tenth (1/10) of normal vision with glasses, one hundred seventy-five (175) weeks.

(4) For the permanent and complete loss of hearing in one (1) ear, seventy-five (75) weeks, and in both ears, two hundred (200) weeks.

(5) For the loss of one (1) testicle, fifty (50) weeks; for the loss of both testicles, one hundred fifty (150) weeks.

(b) With respect to injuries in the following schedule occurring prior to April 1, 1951, the employee shall receive in lieu of all other compensation on account of the injuries, a weekly compensation of fifty-five percent (55%) of the employee's average weekly wages. With respect to injuries in the following schedule occurring on and after April 1, 1951, and prior to April 1, 1955, the employee shall receive in lieu of all other compensation on account of the injuries a weekly compensation of sixty percent (60%) of the employee's average weekly wages. With respect to injuries in the following schedule occurring on and after April 1, 1955, and prior to July 1, 1971, the employee shall receive in addition to temporary total disability benefits not exceeding twenty-six (26) weeks on account of the injuries, a weekly compensation of sixty percent (60%) of the employee's average weekly wages. With respect to injuries in the following schedule occurring on and after July 1, 1971, and before July 1, 1977, the employee shall receive in addition to temporary total disability benefits not exceeding twenty-six (26) weeks on account of the injuries, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred dollars (\$100) average weekly wages, for the period stated for such injuries respectively. With respect to injuries in the following schedule occurring on and after July 1, 1977, and before July 1, 1979, the employee shall receive, in addition to temporary total disability benefits not exceeding twenty-six (26) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages not to exceed one hundred twenty-five dollars (\$125) average weekly wages, for the period stated for the injury. With respect to injuries in the following schedule occurring on and after July 1, 1979, and before July 1, 1988, the employee shall receive, in addition to temporary total disability benefits not exceeding fifty-two (52) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average

weekly wages not to exceed one hundred twenty-five dollars (\$125) average weekly wages for the period stated for the injury. With respect to injuries in the following schedule occurring on and after July 1, 1988, and before July 1, 1989, the employee shall receive, in addition to temporary total disability benefits not exceeding seventy-eight (78) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred sixty-six dollars (\$166) average weekly wages, for the period stated for the injury.

With respect to injuries in the following schedule occurring on and after July 1, 1989, and before July 1, 1990, the employee shall receive, in addition to temporary total disability benefits not exceeding seventy-eight (78) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred eighty-three dollars (\$183) average weekly wages, for the period stated for the injury.

With respect to injuries in the following schedule occurring on and after July 1, 1990, and before July 1, 1991, the employee shall receive, in addition to temporary total disability benefits not exceeding seventy-eight (78) weeks on account of the injury, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed two hundred dollars (\$200) average weekly wages, for the period stated for the injury.

- (1) Loss of use: The total permanent loss of the use of an arm, hand, thumb, finger, leg, foot, toe, or phalange shall be considered as the equivalent of the loss by separation of the arm, hand, thumb, finger, leg, foot, toe, or phalange, and compensation shall be paid for the same period as for the loss thereof by separation.
- (2) Partial loss of use: For the permanent partial loss of the use of an arm, hand, thumb, finger, leg, foot, toe, or phalange, compensation shall be paid for the proportionate loss of the use of such arm, hand, thumb, finger, leg, foot, toe, or phalange.
- (3) For injuries resulting in total permanent disability, five hundred (500) weeks.
- (4) For any permanent reduction of the sight of an eye less than a total loss as specified in subsection (a)(3), compensation shall be paid for a period proportionate to the degree of such permanent reduction without correction or glasses. However, when such

permanent reduction without correction or glasses would result in one hundred percent (100%) loss of vision, but correction or glasses would result in restoration of vision, then in such event compensation shall be paid for fifty percent (50%) of such total loss of vision without glasses, plus an additional amount equal to the proportionate amount of such reduction with glasses, not to exceed an additional fifty percent (50%).

(5) For any permanent reduction of the hearing of one (1) or both ears, less than the total loss as specified in subsection (a)(4), compensation shall be paid for a period proportional to the degree of such permanent reduction.

(6) In all other cases of permanent partial impairment, compensation proportionate to the degree of such permanent partial impairment, in the discretion of the worker's compensation board, not exceeding five hundred (500) weeks.

(7) In all cases of permanent disfigurement which may impair the future usefulness or opportunities of the employee, compensation, in the discretion of the worker's compensation board, not exceeding two hundred (200) weeks, except that no compensation shall be payable under this subdivision where compensation is payable elsewhere in this section.

(c) With respect to injuries in the following schedule occurring on and after July 1, 1991, the employee shall receive in addition to temporary total disability benefits, not exceeding one hundred twenty-five (125) weeks on account of the injury, compensation in an amount determined under the following schedule to be paid weekly at a rate of sixty-six and two-thirds percent ($66\frac{2}{3}\%$) of the employee's average weekly wages during the fifty-two (52) weeks immediately preceding the week in which the injury occurred.

(1) Amputation: For the loss by separation of the thumb, twelve (12) degrees of permanent impairment; of the index finger, eight (8) degrees of permanent impairment; of the second finger, seven (7) degrees of permanent impairment; of the third or ring finger, six (6) degrees of permanent impairment; of the fourth or little finger, four (4) degrees of permanent impairment; of the hand by separation below the elbow joint, forty (40) degrees of permanent impairment; of the arm above the elbow, fifty (50) degrees of permanent impairment; of the big toe, twelve (12) degrees of

permanent impairment; of the second toe, six (6) degrees of permanent impairment; of the third toe, four (4) degrees of permanent impairment; of the fourth toe, three (3) degrees of permanent impairment; of the fifth or little toe, two (2) degrees of permanent impairment; by separation of the foot below the knee joint, thirty-five (35) degrees of permanent impairment; and of the leg above the knee joint, forty-five (45) degrees of permanent impairment.

(2) Amputations: For the loss by separation of any of the body parts described in subdivision (1) on or after July 1, 1997, and for the loss by separation of any of the body parts described in subdivision (3), (5), or (8), on or after July 1, 1999, the dollar values per degree applying on the date of the injury as described in subsection (d) shall be multiplied by two (2). However, the doubling provision of this subdivision does not apply to a loss of use that is not a loss by separation.

(3) The loss of more than one (1) phalange of a thumb or toe shall be considered as the loss of the entire thumb or toe. The loss of more than two (2) phalanges of a finger shall be considered as the loss of the entire finger. The loss of not more than one (1) phalange of a thumb or toe shall be considered as the loss of one-half (1/2) of the degrees of permanent impairment for the loss of the entire thumb or toe. The loss of not more than one (1) phalange of a finger shall be considered as the loss of one-third (1/3) of the finger and compensation shall be paid for one-third (1/3) of the degrees payable for the loss of the entire finger. The loss of more than one (1) phalange of the finger but not more than two (2) phalanges of the finger shall be considered as the loss of one-half (1/2) of the finger and compensation shall be paid for one-half (1/2) of the degrees payable for the loss of the entire finger.

(4) For the loss by separation of both hands or both feet or the total sight of both eyes or any two (2) such losses in the same accident, one hundred (100) degrees of permanent impairment.

(5) For the permanent and complete loss of vision by enucleation, thirty-five (35) degrees of permanent impairment.

(6) For the reduction of vision to one-tenth (1/10) of normal vision with glasses, thirty-five (35) degrees of permanent

impairment.

(7) For the permanent and complete loss of hearing in one (1) ear, fifteen (15) degrees of permanent impairment, and in both ears, forty (40) degrees of permanent impairment.

(8) For the loss of one (1) testicle, ten (10) degrees of permanent impairment; for the loss of both testicles, thirty (30) degrees of permanent impairment.

(9) Loss of use: The total permanent loss of the use of an arm, a hand, a thumb, a finger, a leg, a foot, a toe, or a phalange shall be considered as the equivalent of the loss by separation of the arm, hand, thumb, finger, leg, foot, toe, or phalange, and compensation shall be paid in the same amount as for the loss by separation. However, the doubling provision of subdivision (2) does not apply to a loss of use that is not a loss by separation.

(10) Partial loss of use: For the permanent partial loss of the use of an arm, a hand, a thumb, a finger, a leg, a foot, a toe, or a phalange, compensation shall be paid for the proportionate loss of the use of the arm, hand, thumb, finger, leg, foot, toe, or phalange.

(11) For injuries resulting in total permanent disability, the amount payable for impairment or five hundred (500) weeks of compensation, whichever is greater.

(12) For any permanent reduction of the sight of an eye less than a total loss as specified in subsection (a)(3), the compensation shall be paid in an amount proportionate to the degree of a permanent reduction without correction or glasses. However, when a permanent reduction without correction or glasses would result in one hundred percent (100%) loss of vision, then compensation shall be paid for fifty percent (50%) of the total loss of vision without glasses, plus an additional amount equal to the proportionate amount of the reduction with glasses, not to exceed an additional fifty percent (50%).

(13) For any permanent reduction of the hearing of one (1) or both ears, less than the total loss as specified in subsection (a)(4), compensation shall be paid in an amount proportionate to the degree of a permanent reduction.

(14) In all other cases of permanent partial impairment, compensation proportionate to the degree of a permanent partial impairment, in the discretion of the worker's compensation board,

not exceeding one hundred (100) degrees of permanent impairment.

(15) In all cases of permanent disfigurement which may impair the future usefulness or opportunities of the employee, compensation, in the discretion of the worker's compensation board, not exceeding forty (40) degrees of permanent impairment except that no compensation shall be payable under this subdivision where compensation is payable elsewhere in this section.

(d) Compensation for permanent partial impairment shall be paid according to the degree of permanent impairment for the injury determined under subsection (c) and the following:

(1) With respect to injuries occurring on and after July 1, 1991, and before July 1, 1992, for each degree of permanent impairment from one (1) to thirty-five (35), five hundred dollars (\$500) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), nine hundred dollars (\$900) per degree; for each degree of permanent impairment above fifty (50), one thousand five hundred dollars (\$1,500) per degree.

(2) With respect to injuries occurring on and after July 1, 1992, and before July 1, 1993, for each degree of permanent impairment from one (1) to twenty (20), five hundred dollars (\$500) per degree; for each degree of permanent impairment from twenty-one (21) to thirty-five (35), eight hundred dollars (\$800) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand three hundred dollars (\$1,300) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars (\$1,700) per degree.

(3) With respect to injuries occurring on and after July 1, 1993, and before July 1, 1997, for each degree of permanent impairment from one (1) to ten (10), five hundred dollars (\$500) per degree; for each degree of permanent impairment from eleven (11) to twenty (20), seven hundred dollars (\$700) per degree; for each degree of permanent impairment from twenty-one (21) to thirty-five (35), one thousand dollars (\$1,000) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand four hundred dollars (\$1,400) per degree; for

each degree of permanent impairment above fifty (50), one thousand seven hundred dollars (\$1,700) per degree.

(4) With respect to injuries occurring on and after July 1, 1997, and before July 1, 1998, for each degree of permanent impairment from one (1) to ten (10), seven hundred fifty dollars (\$750) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand dollars (\$1,000) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand four hundred dollars (\$1,400) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars (\$1,700) per degree.

(5) With respect to injuries occurring on and after July 1, 1998, and before July 1, 1999, for each degree of permanent impairment from one (1) to ten (10), seven hundred fifty dollars (\$750) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand dollars (\$1,000) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand four hundred dollars (\$1,400) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars (\$1,700) per degree.

(6) With respect to injuries occurring on and after July 1, 1999, **and before July 1, 2000**, for each degree of permanent impairment from one (1) to ten (10), nine hundred dollars (\$900) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand one hundred dollars (\$1,100) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand six hundred dollars (\$1,600) per degree; for each degree of permanent impairment above fifty (50), two thousand dollars (\$2,000) per degree.

(7) With respect to injuries occurring on and after July 1, 2000, and before July 1, 2001, for each degree of permanent impairment from one (1) to ten (10), one thousand one hundred dollars (\$1,100) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand three hundred dollars (\$1,300) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand dollars (\$2,000) per degree; for each degree of permanent impairment above fifty (50), two

thousand five hundred fifty dollars (\$2,500) per degree.

(8) With respect to injuries occurring on and after July 1, 2001, for each degree of permanent impairment from one (1) to ten (10), one thousand three hundred dollars (\$1,300) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand five hundred dollars (\$1,500) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand four hundred dollars (\$2,400) per degree; for each degree of permanent impairment above fifty (50), three thousand dollars (\$3,000) per degree.

(e) The average weekly wages used in the determination of compensation for permanent partial impairment under subsections (c) and (d) shall not exceed the following:

(1) With respect to injuries occurring on or after July 1, 1991, and before July 1, 1992, four hundred ninety-two dollars (\$492).

(2) With respect to injuries occurring on or after July 1, 1992, and before July 1, 1993, five hundred forty dollars (\$540).

(3) With respect to injuries occurring on or after July 1, 1993, and before July 1, 1994, five hundred ninety-one dollars (\$591).

(4) With respect to injuries occurring on or after July 1, 1994, and before July 1, 1997, six hundred forty-two dollars (\$642).

(5) With respect to injuries occurring on or after July 1, 1997, and before July 1, 1998, six hundred seventy-two dollars (\$672).

(6) With respect to injuries occurring on or after July 1, 1998, and before July 1, 1999, seven hundred two dollars (\$702).

(7) With respect to injuries occurring on or after July 1, 1999, and before July 1, 2000, seven hundred thirty-two dollars (\$732).

(8) With respect to injuries occurring on or after July 1, 2000, **and before July 1, 2001**, seven hundred sixty-two dollars (\$762).

(9) With respect to injuries occurring on or after July 1, 2001, and before July 1, 2002, eight hundred twenty-two dollars (\$822).

(10) With respect to injuries occurring on or after July 1, 2002, eight hundred eighty-two dollars (\$882).

SECTION 4. IC 22-3-3-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 22. (a) In computing the compensation under this law with respect to injuries occurring on

and after April 1, 1963, and prior to April 1, 1965, the average weekly wages shall be considered to be not more than seventy dollars (\$70) nor less than thirty dollars (\$30). In computing the compensation under this law with respect to injuries occurring on and after April 1, 1965, and prior to April 1, 1967, the average weekly wages shall be considered to be not more than seventy-five dollars (\$75) and not less than thirty dollars (\$30). In computing the compensation under this law with respect to injuries occurring on and after April 1, 1967, and prior to April 1, 1969, the average weekly wages shall be considered to be not more than eighty-five dollars (\$85) and not less than thirty-five dollars (\$35). In computing the compensation under this law with respect to injuries occurring on and after April 1, 1969, and prior to July 1, 1971, the average weekly wages shall be considered to be not more than ninety-five dollars (\$95) and not less than thirty-five dollars (\$35). In computing the compensation under this law with respect to injuries occurring on and after July 1, 1971, and prior to July 1, 1974, the average weekly wages shall be considered to be: (A) Not more than: (1) one hundred dollars (\$100) if no dependents; (2) one hundred five dollars (\$105) if one (1) dependent; (3) one hundred ten dollars (\$110) if two (2) dependents; (4) one hundred fifteen dollars (\$115) if three (3) dependents; (5) one hundred twenty dollars (\$120) if four (4) dependents; and (6) one hundred twenty-five dollars (\$125) if five (5) or more dependents; and (B) Not less than thirty-five dollars (\$35). In computing compensation for temporary total disability, temporary partial disability, and total permanent disability under this law with respect to injuries occurring on and after July 1, 1974, and before July 1, 1976, the average weekly wages shall be considered to be (A) not more than one hundred thirty-five dollars (\$135), and (B) not less than seventy-five dollars (\$75). However, the weekly compensation payable shall in no case exceed the average weekly wages of the employee at the time of the injury. In computing compensation for temporary total disability, temporary partial disability and total permanent disability under this law with respect to injuries occurring on and after July 1, 1976, and before July 1, 1977, the average weekly wages shall be considered to be (1) not more than one hundred fifty-six dollars (\$156) and (2) not less than seventy-five dollars (\$75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury. In computing compensation for

temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1977, and before July 1, 1979, the average weekly wages are considered to be (1) not more than one hundred eighty dollars (\$180); and (2) not less than seventy-five dollars (\$75). However, the weekly compensation payable may not exceed the average weekly wages of the employee at the time of the injury. In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1979, and before July 1, 1980, the average weekly wages are considered to be (1) not more than one hundred ninety-five dollars (\$195), and (2) not less than seventy-five dollars (\$75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury. In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1980, and before July 1, 1983, the average weekly wages are considered to be (1) not more than two hundred ten dollars (\$210), and (2) not less than seventy-five dollars (\$75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury. In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1983, and before July 1, 1984, the average weekly wages are considered to be (1) not more than two hundred thirty-four dollars (\$234) and (2) not less than seventy-five dollars (\$75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury. In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1984, and before July 1, 1985, the average weekly wages are considered to be (1) not more than two hundred forty-nine dollars (\$249) and (2) not less than seventy-five dollars (\$75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury. In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1985, and before July 1, 1986,

the average weekly wages are considered to be (1) not more than two hundred sixty-seven dollars (\$267) and (2) not less than seventy-five dollars (\$75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury. In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1986, and before July 1, 1988, the average weekly wages are considered to be (1) not more than two hundred eighty-five dollars (\$285) and (2) not less than seventy-five dollars (\$75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury. In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1988, and before July 1, 1989, the average weekly wages are considered to be (1) not more than three hundred eighty-four dollars (\$384) and (2) not less than seventy-five dollars (\$75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1989, and before July 1, 1990, the average weekly wages are considered to be (1) not more than four hundred eleven dollars (\$411) and (2) not less than seventy-five dollars (\$75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1990, and before July 1, 1991, the average weekly wages are considered to be (1) not more than four hundred forty-one dollars (\$441) and (2) not less than seventy-five dollars (\$75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1991, and before July 1, 1992, the average weekly wages are considered to be (1) not more than four

hundred ninety-two dollars (\$492) and (2) not less than seventy-five dollars (\$75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1992, and before July 1, 1993, the average weekly wages are considered to be (1) not more than five hundred forty dollars (\$540) and (2) not less than seventy-five dollars (\$75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1993, and before July 1, 1994, the average weekly wages are considered to be (1) not more than five hundred ninety-one dollars (\$591) and (2) not less than seventy-five dollars (\$75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1994, and before July 1, 1997, the average weekly wages are considered to be (1) not more than six hundred forty-two dollars (\$642) and (2) not less than seventy-five dollars (\$75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

(b) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, the average weekly wages are considered to be:

(1) with respect to injuries occurring on and after July 1, 1997, and before July 1, 1998:

(A) not more than six hundred seventy-two dollars (\$672); and

(B) not less than seventy-five dollars (\$75);

(2) with respect to injuries occurring on and after July 1, 1998, and before July 1, 1999:

(A) not more than seven hundred two dollars (\$702); and

(B) not less than seventy-five dollars (\$75);

(3) with respect to injuries occurring on and after July 1, 1999, and before July 1, 2000:

(A) not more than seven hundred thirty-two dollars (\$732); and

(B) not less than seventy-five dollars (\$75); ~~and~~

(4) with respect to injuries occurring on and after July 1, 2000, **and before July 1, 2001:**

(A) not more than seven hundred sixty-two dollars (\$762); and

(B) not less than seventy-five dollars (\$75);

(5) with respect to injuries occurring on and after July 1, 2001, and before July 1, 2002:

(A) not more than eight hundred twenty-two dollars (\$822); and

(B) not less than seventy-five dollars (\$75); and

(6) with respect to injuries occurring on and after July 1, 2002:

(A) not more than eight hundred eighty-two dollars (\$882); and

(B) not less than seventy-five dollars (\$75).

However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

(c) For the purpose of this section only and with respect to injuries occurring on and after July 1, 1971, and prior to July 1, 1974, only, the term "dependent" as used in this section shall mean persons defined as presumptive dependents under section 19 of this chapter, except that such dependency shall be determined as of the date of the injury to the employee.

(d) With respect to any injury occurring on and after April 1, 1955, and prior to April 1, 1957, the maximum compensation exclusive of medical benefits, which shall be paid for an injury under any provisions of this law or under any combination of its provisions shall not exceed twelve thousand five hundred dollars (\$12,500) in any case. With respect to any injury occurring on and after April 1, 1957 and prior to April 1, 1963, the maximum compensation exclusive of medical benefits, which shall be paid for an injury under any provision of this law or under any combination of its provisions shall not exceed fifteen thousand dollars (\$15,000) in any case. With respect to any injury occurring on and after April 1, 1963, and prior to April 1, 1965, the

maximum compensation exclusive of medical benefits, which shall be paid for an injury under any provision of this law or under any combination of its provisions shall not exceed sixteen thousand five hundred dollars (\$16,500) in any case. With respect to any injury occurring on and after April 1, 1965, and prior to April 1, 1967, the maximum compensation exclusive of medical benefits which shall be paid for any injury under any provision of this law or any combination of provisions shall not exceed twenty thousand dollars (\$20,000) in any case. With respect to any injury occurring on and after April 1, 1967, and prior to July 1, 1971, the maximum compensation exclusive of medical benefits which shall be paid for an injury under any provision of this law or any combination of provisions shall not exceed twenty-five thousand dollars (\$25,000) in any case. With respect to any injury occurring on and after July 1, 1971, and prior to July 1, 1974, the maximum compensation exclusive of medical benefits which shall be paid for any injury under any provision of this law or any combination of provisions shall not exceed thirty thousand dollars (\$30,000) in any case. With respect to any injury occurring on and after July 1, 1974, and before July 1, 1976, the maximum compensation exclusive of medical benefits which shall be paid for an injury under any provision of this law or any combination of provisions shall not exceed forty-five thousand dollars (\$45,000) in any case. With respect to an injury occurring on and after July 1, 1976, and before July 1, 1977, the maximum compensation, exclusive of medical benefits, which shall be paid for any injury under any provision of this law or any combination of provisions shall not exceed fifty-two thousand dollars (\$52,000) in any case. With respect to any injury occurring on and after July 1, 1977, and before July 1, 1979, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provision of this law or any combination of provisions may not exceed sixty thousand dollars (\$60,000) in any case. With respect to any injury occurring on and after July 1, 1979, and before July 1, 1980, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed sixty-five thousand dollars (\$65,000) in any case. With respect to any injury occurring on and after July 1, 1980, and before July 1, 1983, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any

provisions of this law or any combination of provisions may not exceed seventy thousand dollars (\$70,000) in any case. With respect to any injury occurring on and after July 1, 1983, and before July 1, 1984, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed seventy-eight thousand dollars (\$78,000) in any case. With respect to any injury occurring on and after July 1, 1984, and before July 1, 1985, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed eighty-three thousand dollars (\$83,000) in any case. With respect to any injury occurring on and after July 1, 1985, and before July 1, 1986, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed eighty-nine thousand dollars (\$89,000) in any case. With respect to any injury occurring on and after July 1, 1986, and before July 1, 1988, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed ninety-five thousand dollars (\$95,000) in any case. With respect to any injury occurring on and after July 1, 1988, and before July 1, 1989, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed one hundred twenty-eight thousand dollars (\$128,000) in any case.

With respect to any injury occurring on and after July 1, 1989, and before July 1, 1990, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed one hundred thirty-seven thousand dollars (\$137,000) in any case.

With respect to any injury occurring on and after July 1, 1990, and before July 1, 1991, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed one hundred forty-seven thousand dollars (\$147,000) in any case.

With respect to any injury occurring on and after July 1, 1991, and before July 1, 1992, the maximum compensation, exclusive of medical benefits, that may be paid for an injury under any provisions of this law

or any combination of provisions may not exceed one hundred sixty-four thousand dollars (\$164,000) in any case.

With respect to any injury occurring on and after July 1, 1992, and before July 1, 1993, the maximum compensation, exclusive of medical benefits, that may be paid for an injury under any provisions of this law or any combination of provisions may not exceed one hundred eighty thousand dollars (\$180,000) in any case.

With respect to any injury occurring on and after July 1, 1993, and before July 1, 1994, the maximum compensation, exclusive of medical benefits, that may be paid for an injury under any provisions of this law or any combination of provisions may not exceed one hundred ninety-seven thousand dollars (\$197,000) in any case.

With respect to any injury occurring on and after July 1, 1994, and before July 1, 1997, the maximum compensation, exclusive of medical benefits, which may be paid for an injury under any provisions of this law or any combination of provisions may not exceed two hundred fourteen thousand dollars (\$214,000) in any case.

(e) The maximum compensation, exclusive of medical benefits, that may be paid for an injury under any provision of this law or any combination of provisions may not exceed the following amounts in any case:

(1) With respect to an injury occurring on and after July 1, 1997, and before July 1, 1998, two hundred twenty-four thousand dollars (\$224,000).

(2) With respect to an injury occurring on and after July 1, 1998, and before July 1, 1999, two hundred thirty-four thousand dollars (\$234,000).

(3) With respect to an injury occurring on and after July 1, 1999, and before July 1, 2000, two hundred forty-four thousand dollars (\$244,000).

(4) With respect to an injury occurring on and after July 1, 2000, **and before July 1, 2001**, two hundred fifty-four thousand dollars (\$254,000).

(5) With respect to an injury occurring on and after July 1, 2001, and before July 1, 2002, two hundred seventy-four thousand dollars (\$274,000).

(6) With respect to an injury occurring on and after July 1, 2002, two hundred ninety-four thousand dollars (\$294,000).

SECTION 5. IC 22-3-4-12.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 12.1. (a) The worker's compensation board, upon hearing a claim for benefits, has the exclusive jurisdiction to determine whether the employer, the employer's worker's compensation administrator, or the worker's compensation insurance carrier has acted with a lack of diligence, in bad faith, or has committed an independent tort in adjusting or settling the claim for compensation.

(b) If lack of diligence, bad faith, or an independent tort is proven under subsection (a), the award to the claimant shall be at least five hundred dollars (\$500), but not more than twenty thousand dollars (\$20,000), depending upon the degree of culpability and the actual damages sustained.

(c) An award under this section shall be paid by the employer, worker's compensation administrator, or worker's compensation insurance carrier responsible to the claimant for the lack of diligence, bad faith, or independent tort.

(d) The worker's compensation board shall fix in addition to any award under this section the amount of attorney's fees payable with respect to an award made under this section. The attorney's fees may not exceed thirty-three and one-third percent (33 1/3%) of the amount of the award.

(e) If the worker's compensation board makes an award under this section, it shall reduce the award to writing and forward a copy to the department of insurance for review under IC 27-4-1-4.5.

(f) An award or awards to a claimant pursuant to subsection (b) shall not total more than twenty thousand dollars (\$20,000) during the life of the claim for benefits arising from an accidental injury.

SECTION 6. IC 22-3-6-1, AS AMENDED BY P.L.235-1999, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1. In IC 22-3-2 through IC 22-3-6, unless the context otherwise requires:

(a) "Employer" includes the state and any political subdivision, any municipal corporation within the state, any individual or the legal representative of a deceased individual, firm, association, limited liability company, or corporation or the receiver or trustee of the same, using the services of another for pay. **A parent or a subsidiary of a corporation or a lessor of employees shall be considered to be the**

employer of the corporation's, the lessee's, or the lessor's employees for purposes of IC 22-3-2-6. If the employer is insured, the term includes the employer's insurer so far as applicable. However, the inclusion of an employer's insurer within this definition does not allow an employer's insurer to avoid payment for services rendered to an employee with the approval of the employer. The term also includes an employer that provides on-the-job training under the federal School to Work Opportunities Act (20 U.S.C. 6101 et seq.) to the extent set forth in IC 22-3-2-2.5.

(b) "Employee" means every person, including a minor, in the service of another, under any contract of hire or apprenticeship, written or implied, except one whose employment is both casual and not in the usual course of the trade, business, occupation, or profession of the employer.

(1) An executive officer elected or appointed and empowered in accordance with the charter and bylaws of a corporation, other than a municipal corporation or governmental subdivision or a charitable, religious, educational, or other nonprofit corporation, is an employee of the corporation under IC 22-3-2 through IC 22-3-6.

(2) An executive officer of a municipal corporation or other governmental subdivision or of a charitable, religious, educational, or other nonprofit corporation may, notwithstanding any other provision of IC 22-3-2 through IC 22-3-6, be brought within the coverage of its insurance contract by the corporation by specifically including the executive officer in the contract of insurance. The election to bring the executive officer within the coverage shall continue for the period the contract of insurance is in effect, and during this period, the executive officers thus brought within the coverage of the insurance contract are employees of the corporation under IC 22-3-2 through IC 22-3-6.

(3) Any reference to an employee who has been injured, when the employee is dead, also includes the employee's legal representatives, dependents, and other persons to whom compensation may be payable.

(4) An owner of a sole proprietorship may elect to include the owner as an employee under IC 22-3-2 through IC 22-3-6 if the owner is actually engaged in the proprietorship business. If the

owner makes this election, the owner must serve upon the owner's insurance carrier and upon the board written notice of the election. No owner of a sole proprietorship may be considered an employee under IC 22-3-2 through IC 22-3-6 until the notice has been received. If the owner of a sole proprietorship is an independent contractor in the construction trades and does not make the election provided under this subdivision, the owner must obtain an affidavit of exemption under IC 22-3-2-14.5.

(5) A partner in a partnership may elect to include the partner as an employee under IC 22-3-2 through IC 22-3-6 if the partner is actually engaged in the partnership business. If a partner makes this election, the partner must serve upon the partner's insurance carrier and upon the board written notice of the election. No partner may be considered an employee under IC 22-3-2 through IC 22-3-6 until the notice has been received. If a partner in a partnership is an independent contractor in the construction trades and does not make the election provided under this subdivision, the partner must obtain an affidavit of exemption under IC 22-3-2-14.5.

(6) Real estate professionals are not employees under IC 22-3-2 through IC 22-3-6 if:

- (A) they are licensed real estate agents;
- (B) substantially all their remuneration is directly related to sales volume and not the number of hours worked; and
- (C) they have written agreements with real estate brokers stating that they are not to be treated as employees for tax purposes.

(7) A person is an independent contractor in the construction trades and not an employee under IC 22-3-2 through IC 22-3-6 if the person is an independent contractor under the guidelines of the United States Internal Revenue Service.

(8) An owner-operator that provides a motor vehicle and the services of a driver under a written contract that is subject to IC 8-2.1-24-23, 45 IAC 16-1-13, or 49 CFR 1057, to a motor carrier is not an employee of the motor carrier for purposes of IC 22-3-2 through IC 22-3-6. The owner-operator may elect to be covered and have the owner-operator's drivers covered under a worker's compensation insurance policy or authorized

self-insurance that insures the motor carrier if the owner-operator pays the premiums as requested by the motor carrier. An election by an owner-operator under this subdivision does not terminate the independent contractor status of the owner-operator for any purpose other than the purpose of this subdivision.

(9) A member or manager in a limited liability company may elect to include the member or manager as an employee under IC 22-3-2 through IC 22-3-6 if the member or manager is actually engaged in the limited liability company business. If a member or manager makes this election, the member or manager must serve upon the member's or manager's insurance carrier and upon the board written notice of the election. A member or manager may not be considered an employee under IC 22-3-2 through IC 22-3-6 until the notice has been received.

(10) An unpaid participant under the federal School to Work Opportunities Act (20 U.S.C. 6101 et seq.) is an employee to the extent set forth in IC 22-3-2-2.5.

(c) "Minor" means an individual who has not reached seventeen (17) years of age.

(1) Unless otherwise provided in this subsection, a minor employee shall be considered as being of full age for all purposes of IC 22-3-2 through IC 22-3-6.

(2) If the employee is a minor who, at the time of the accident, is employed, required, suffered, or permitted to work in violation of IC 20-8.1-4-25, the amount of compensation and death benefits, as provided in IC 22-3-2 through IC 22-3-6, shall be double the amount which would otherwise be recoverable. The insurance carrier shall be liable on its policy for one-half (1/2) of the compensation or benefits that may be payable on account of the injury or death of the minor, and the employer shall be liable for the other one-half (1/2) of the compensation or benefits. If the employee is a minor who is not less than sixteen (16) years of age and who has not reached seventeen (17) years of age and who at the time of the accident is employed, suffered, or permitted to work at any occupation which is not prohibited by law, this subdivision does not apply.

(3) A minor employee who, at the time of the accident, is a student performing services for an employer as part of an

approved program under IC 20-10.1-6-7 shall be considered a full-time employee for the purpose of computing compensation for permanent impairment under IC 22-3-3-10. The average weekly wages for such a student shall be calculated as provided in subsection (d)(4).

(4) The rights and remedies granted in this subsection to a minor under IC 22-3-2 through IC 22-3-6 on account of personal injury or death by accident shall exclude all rights and remedies of the minor, the minor's parents, or the minor's personal representatives, dependents, or next of kin at common law, statutory or otherwise, on account of the injury or death. This subsection does not apply to minors who have reached seventeen (17) years of age.

(d) "Average weekly wages" means the earnings of the injured employee in the employment in which the employee was working at the time of the injury during the period of fifty-two (52) weeks immediately preceding the date of injury, divided by fifty-two (52), except as follows:

(1) If the injured employee lost seven (7) or more calendar days during this period, although not in the same week, then the earnings for the remainder of the fifty-two (52) weeks shall be divided by the number of weeks and parts thereof remaining after the time lost has been deducted.

(2) Where the employment prior to the injury extended over a period of less than fifty-two (52) weeks, the method of dividing the earnings during that period by the number of weeks and parts thereof during which the employee earned wages shall be followed, if results just and fair to both parties will be obtained. Where by reason of the shortness of the time during which the employee has been in the employment of the employee's employer or of the casual nature or terms of the employment it is impracticable to compute the average weekly wages, as defined in this subsection, regard shall be had to the average weekly amount which during the fifty-two (52) weeks previous to the injury was being earned by a person in the same grade employed at the same work by the same employer or, if there is no person so employed, by a person in the same grade employed in the same class of employment in the same district.

(3) Wherever allowances of any character made to an employee in lieu of wages are a specified part of the wage contract, they shall be deemed a part of his earnings.

(4) In computing the average weekly wages to be used in calculating an award for permanent impairment under IC 22-3-3-10 for a student employee in an approved training program under IC 20-10.1-6-7, the following formula shall be used. Calculate the product of:

(A) the student employee's hourly wage rate; multiplied by

(B) forty (40) hours.

The result obtained is the amount of the average weekly wages for the student employee.

(e) "Injury" and "personal injury" mean only injury by accident arising out of and in the course of the employment and do not include a disease in any form except as it results from the injury.

(f) "Billing review service" refers to a person or an entity that reviews a medical service provider's bills or statements for the purpose of determining pecuniary liability. The term includes an employer's worker's compensation insurance carrier if the insurance carrier performs such a review.

(g) "Billing review standard" means the data used by a billing review service to determine pecuniary liability.

(h) "Community" means a geographic service area based on zip code districts defined by the United States Postal Service according to the following groupings:

(1) The geographic service area served by zip codes with the first three (3) digits 463 and 464.

(2) The geographic service area served by zip codes with the first three (3) digits 465 and 466.

(3) The geographic service area served by zip codes with the first three (3) digits 467 and 468.

(4) The geographic service area served by zip codes with the first three (3) digits 469 and 479.

(5) The geographic service area served by zip codes with the first three (3) digits 460, 461 (except 46107), and 473.

(6) The geographic service area served by the 46107 zip code and zip codes with the first three (3) digits 462.

(7) The geographic service area served by zip codes with the first

three (3) digits 470, 471, 472, 474, and 478.

(8) The geographic service area served by zip codes with the first three (3) digits 475, 476, and 477.

(i) "Medical service provider" refers to a person or an entity that provides medical services, treatment, or supplies to an employee under IC 22-3-2 through IC 22-3-6.

(j) "Pecuniary liability" means the responsibility of an employer or the employer's insurance carrier for the payment of the charges for each specific service or product for human medical treatment provided under IC 22-3-2 through IC 22-3-6 in a defined community, equal to or less than the charges made by medical service providers at the eightieth percentile in the same community for like services or products.

SECTION 7. IC 22-3-7-9, AS AMENDED BY P.L.235-1999, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 9. (a) As used in this chapter, "employer" includes the state and any political subdivision, any municipal corporation within the state, any individual or the legal representative of a deceased individual, firm, association, limited liability company, or corporation or the receiver or trustee of the same, using the services of another for pay. **A parent or a subsidiary of a corporation or a lessor of employees shall be considered to be the employer of the corporation's, the lessee's, or the lessor's employees for purposes of section 6 of this chapter.** The term also includes an employer that provides on-the-job training under the federal School to Work Opportunities Act (20 U.S.C. 6101 et seq.) to the extent set forth under section 2.5 of this chapter. If the employer is insured, the term includes his insurer so far as applicable. However, the inclusion of an employer's insurer within this definition does not allow an employer's insurer to avoid payment for services rendered to an employee with the approval of the employer.

(b) As used in this chapter, "employee" means every person, including a minor, in the service of another, under any contract of hire or apprenticeship written or implied, except one whose employment is both casual and not in the usual course of the trade, business, occupation, or profession of the employer. For purposes of this chapter the following apply:

(1) Any reference to an employee who has suffered disablement, when the employee is dead, also includes his legal representative,

dependents, and other persons to whom compensation may be payable.

(2) An owner of a sole proprietorship may elect to include himself as an employee under this chapter if he is actually engaged in the proprietorship business. If the owner makes this election, he must serve upon his insurance carrier and upon the board written notice of the election. No owner of a sole proprietorship may be considered an employee under this chapter unless the notice has been received. If the owner of a sole proprietorship is an independent contractor in the construction trades and does not make the election provided under this subdivision, the owner must obtain an affidavit of exemption under IC 22-3-7-34.5.

(3) A partner in a partnership may elect to include himself as an employee under this chapter if he is actually engaged in the partnership business. If a partner makes this election, he must serve upon his insurance carrier and upon the board written notice of the election. No partner may be considered an employee under this chapter until the notice has been received. If a partner in a partnership is an independent contractor in the construction trades and does not make the election provided under this subdivision, the partner must obtain an affidavit of exemption under IC 22-3-7-34.5.

(4) Real estate professionals are not employees under this chapter if:

- (A) they are licensed real estate agents;
- (B) substantially all their remuneration is directly related to sales volume and not the number of hours worked; and
- (C) they have written agreements with real estate brokers stating that they are not to be treated as employees for tax purposes.

(5) A person is an independent contractor in the construction trades and not an employee under this chapter if the person is an independent contractor under the guidelines of the United States Internal Revenue Service.

(6) An owner-operator that provides a motor vehicle and the services of a driver under a written contract that is subject to IC 8-2.1-24-23, 45 IAC 16-1-13, or 49 CFR 1057, to a motor carrier is not an employee of the motor carrier for purposes of this

chapter. The owner-operator may elect to be covered and have the owner-operator's drivers covered under a worker's compensation insurance policy or authorized self-insurance that insures the motor carrier if the owner-operator pays the premiums as requested by the motor carrier. An election by an owner-operator under this subdivision does not terminate the independent contractor status of the owner-operator for any purpose other than the purpose of this subdivision.

(7) An unpaid participant under the federal School to Work Opportunities Act (20 U.S.C. 6101 et seq.) is an employee to the extent set forth under section 2.5 of this chapter.

(c) As used in this chapter, "minor" means an individual who has not reached seventeen (17) years of age. A minor employee shall be considered as being of full age for all purposes of this chapter. However, if the employee is a minor who, at the time of the last exposure, is employed, required, suffered, or permitted to work in violation of the child labor laws of this state, the amount of compensation and death benefits, as provided in this chapter, shall be double the amount which would otherwise be recoverable. The insurance carrier shall be liable on its policy for one-half (1/2) of the compensation or benefits that may be payable on account of the disability or death of the minor, and the employer shall be wholly liable for the other one-half (1/2) of the compensation or benefits. If the employee is a minor who is not less than sixteen (16) years of age and who has not reached seventeen (17) years of age, and who at the time of the last exposure is employed, suffered, or permitted to work at any occupation which is not prohibited by law, the provisions of this subsection prescribing double the amount otherwise recoverable do not apply. The rights and remedies granted to a minor under this chapter on account of disease shall exclude all rights and remedies of the minor, his parents, his personal representatives, dependents, or next of kin at common law, statutory or otherwise, on account of any disease.

(d) This chapter does not apply to casual laborers as defined in subsection (b), nor to farm or agricultural employees, nor to household employees, nor to railroad employees engaged in train service as engineers, firemen, conductors, brakemen, flagmen, baggagemen, or foremen in charge of yard engines and helpers assigned thereto, nor to their employers with respect to these employees. Also, this chapter

does not apply to employees or their employers with respect to employments in which the laws of the United States provide for compensation or liability for injury to the health, disability, or death by reason of diseases suffered by these employees.

(e) As used in this chapter, "disablement" means the event of becoming disabled from earning full wages at the work in which the employee was engaged when last exposed to the hazards of the occupational disease by the employer from whom he claims compensation or equal wages in other suitable employment, and "disability" means the state of being so incapacitated.

(f) For the purposes of this chapter, no compensation shall be payable for or on account of any occupational diseases unless disablement, as defined in subsection (e), occurs within two (2) years after the last day of the last exposure to the hazards of the disease except for the following:

(1) In all cases of occupational diseases caused by the inhalation of silica dust or coal dust, no compensation shall be payable unless disablement, as defined in subsection (e), occurs within three (3) years after the last day of the last exposure to the hazards of the disease.

(2) In all cases of occupational disease caused by the exposure to radiation, no compensation shall be payable unless disablement, as defined in subsection (e), occurs within two (2) years from the date on which the employee had knowledge of the nature of his occupational disease or, by exercise of reasonable diligence, should have known of the existence of such disease and its causal relationship to his employment.

(3) In all cases of occupational diseases caused by the inhalation of asbestos dust, no compensation shall be payable unless disablement, as defined in subsection (e), occurs within three (3) years after the last day of the last exposure to the hazards of the disease if the last day of the last exposure was before July 1, 1985.

(4) In all cases of occupational disease caused by the inhalation of asbestos dust in which the last date of the last exposure occurs on or after July 1, 1985, and before July 1, 1988, no compensation shall be payable unless disablement, as defined in subsection (e), occurs within twenty (20) years after the last day of the last exposure.

(5) In all cases of occupational disease caused by the inhalation of asbestos dust in which the last date of the last exposure occurs on or after July 1, 1988, no compensation shall be payable unless disablement (as defined in subsection (e)) occurs within thirty-five (35) years after the last day of the last exposure.

(g) For the purposes of this chapter, no compensation shall be payable for or on account of death resulting from any occupational disease unless death occurs within two (2) years after the date of disablement. However, this subsection does not bar compensation for death:

- (1) where death occurs during the pendency of a claim filed by an employee within two (2) years after the date of disablement and which claim has not resulted in a decision or has resulted in a decision which is in process of review or appeal; or
- (2) where, by agreement filed or decision rendered, a compensable period of disability has been fixed and death occurs within two (2) years after the end of such fixed period, but in no event later than three hundred (300) weeks after the date of disablement.

(h) As used in this chapter, "billing review service" refers to a person or an entity that reviews a medical service provider's bills or statements for the purpose of determining pecuniary liability. The term includes an employer's worker's compensation insurance carrier if the insurance carrier performs such a review.

(i) As used in this chapter, "billing review standard" means the data used by a billing review service to determine pecuniary liability.

(j) As used in this chapter, "community" means a geographic service area based on zip code districts defined by the United States Postal Service according to the following groupings:

- (1) The geographic service area served by zip codes with the first three (3) digits 463 and 464.
- (2) The geographic service area served by zip codes with the first three (3) digits 465 and 466.
- (3) The geographic service area served by zip codes with the first three (3) digits 467 and 468.
- (4) The geographic service area served by zip codes with the first three (3) digits 469 and 479.
- (5) The geographic service area served by zip codes with the first

three (3) digits 460, 461 (except 46107), and 473.

(6) The geographic service area served by the 46107 zip code and zip codes with the first three (3) digits 462.

(7) The geographic service area served by zip codes with the first three (3) digits 470, 471, 472, 474, and 478.

(8) The geographic service area served by zip codes with the first three (3) digits 475, 476, and 477.

(k) As used in this chapter, "medical service provider" refers to a person or an entity that provides medical services, treatment, or supplies to an employee under this chapter.

(l) As used in this chapter, "pecuniary liability" means the responsibility of an employer or the employer's insurance carrier for the payment of the charges for each specific service or product for human medical treatment provided under this chapter in a defined community, equal to or less than the charges made by medical service providers at the eightieth percentile in the same community for like services or products.

SECTION 8. IC 22-3-7-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 16. (a) Compensation shall be allowed on account of disablement from occupational disease resulting in only temporary total disability to work or temporary partial disability to work beginning with the eighth day of such disability except for the medical benefits provided for in section 17 of this chapter. Compensation shall be allowed for the first seven (7) calendar days only as provided in this section. The first weekly installment of compensation for temporary disability is due fourteen (14) days after the disability begins. Not later than fifteen (15) days from the date that the first installment of compensation is due, the employer or the employer's insurance carrier shall tender to the employee or to the employee's dependents, with all compensation due, a properly prepared compensation agreement in a form prescribed by the board. Whenever an employer or the employer's insurance carrier denies or is not able to determine liability to pay compensation or benefits, the employer or the employer's insurance carrier shall notify the worker's compensation board and the employee in writing on a form prescribed by the worker's compensation board not later than thirty (30) days after the employer's knowledge of the claimed disablement. If a determination of liability cannot be made within thirty (30) days, the worker's compensation

board may approve an additional thirty (30) days upon a written request of the employer or the employer's insurance carrier that sets forth the reasons that the determination could not be made within thirty (30) days and states the facts or circumstances that are necessary to determine liability within the additional thirty (30) days. More than thirty (30) days of additional time may be approved by the worker's compensation board upon the filing of a petition by the employer or the employer's insurance carrier that sets forth:

- (1) the extraordinary circumstances that have precluded a determination of liability within the initial sixty (60) days;
- (2) the status of the investigation on the date the petition is filed;
- (3) the facts or circumstances that are necessary to make a determination; and
- (4) a timetable for the completion of the remaining investigation.

An employer who fails to comply with this section is subject to a civil penalty of fifty dollars (\$50), to be assessed and collected by the board upon notice and hearing. Civil penalties collected under this section shall be deposited in the state general fund.

(b) Once begun, temporary total disability benefits may not be terminated by the employer unless:

- (1) the employee has returned to work;
- (2) the employee has died;
- (3) the employee has refused to undergo a medical examination under section 20 of this chapter;
- (4) the employee has received five hundred (500) weeks of temporary total disability benefits or has been paid the maximum compensation allowable under section 19 of this chapter; or
- (5) the employee is unable or unavailable to work for reasons unrelated to the compensable disease.

In all other cases the employer must notify the employee in writing of the employer's intent to terminate the payment of temporary total disability benefits, and of the availability of employment, if any, on a form approved by the board. If the employee disagrees with the proposed termination, the employee must give written notice of disagreement to the board and the employer within seven (7) days after receipt of the notice of intent to terminate benefits. If the board and employer do not receive a notice of disagreement under this section, the employee's temporary total disability benefits shall be terminated.

Upon receipt of the notice of disagreement, the board shall immediately contact the parties, which may be by telephone or other means and attempt to resolve the disagreement. If the board is unable to resolve the disagreement within ten (10) days of receipt of the notice of disagreement, the board shall immediately arrange for an evaluation of the employee by an independent medical examiner. The independent medical examiner shall be selected by mutual agreement of the parties or, if the parties are unable to agree, appointed by the board under IC 22-3-4-11. If the independent medical examiner determines that the employee is no longer temporarily disabled or is still temporarily disabled but can return to employment that the employer has made available to the employee, or if the employee fails or refuses to appear for examination by the independent medical examiner, temporary total disability benefits may be terminated. If either party disagrees with the opinion of the independent medical examiner, the party shall apply to the board for a hearing under section 27 of this chapter.

(c) An employer is not required to continue the payment of temporary total disability benefits for more than fourteen (14) days after the employer's proposed termination date unless the independent medical examiner determines that the employee is temporarily disabled and unable to return to any employment that the employer has made available to the employee.

(d) If it is determined that as a result of this section temporary total disability benefits were overpaid, the overpayment shall be deducted from any benefits due the employee under this section and, if there are no benefits due the employee or the benefits due the employee do not equal the amount of the overpayment, the employee shall be responsible for paying any overpayment which cannot be deducted from benefits due the employee.

(e) For disablements occurring on and after April 1, 1951, and prior to July 1, 1971, from occupational disease resulting in temporary total disability for any work there shall be paid to the disabled employee during such temporary total disability a weekly compensation equal to sixty percent (60%) of the employee's average weekly wages for a period not to exceed five hundred (500) weeks. Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-eight (28) days.

For disablements occurring on and after July 1, 1971, and prior to

July 1, 1974, from occupational disease resulting in temporary total disability for any work there shall be paid to the disabled employee during such temporary total disability a weekly compensation equal to sixty percent (60%) of the employee's average weekly wages, as defined in section 19 of this chapter, for a period not to exceed five hundred (500) weeks. Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-eight (28) days.

For disablements occurring on and after July 1, 1974, and before July 1, 1976, from occupational disease resulting in temporary total disability for any work there shall be paid to the disabled employee during such temporary total disability a weekly compensation equal to sixty-six and two-thirds percent ($66\frac{2}{3}\%$) of the employee's average weekly wages, up to one hundred thirty-five dollars (\$135) average weekly wages, as defined in section 19 of this chapter, for a period not to exceed five hundred (500) weeks. Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-one (21) days.

For disablements occurring on and after July 1, 1976, from occupational disease resulting in temporary total disability for any work there shall be paid to the disabled employee during the temporary total disability weekly compensation equal to sixty-six and two-thirds percent ($66\frac{2}{3}\%$) of the employee's average weekly wages, as defined in section 19 of this chapter, for a period not to exceed five hundred (500) weeks. Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-one (21) days.

(f) For disablements occurring on and after April 1, 1951, and prior to July 1, 1971, from occupational disease resulting in temporary partial disability for work there shall be paid to the disabled employee during such disability a weekly compensation equal to sixty percent (60%) of the difference between the employee's average weekly wages and the weekly wages at which the employee is actually employed after the disablement, for a period not to exceed three hundred (300) weeks. Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-eight (28) days. In case of partial disability after the period of temporary total disability, the later period shall be included as part of the maximum period

allowed for partial disability.

For disablements occurring on and after July 1, 1971, and prior to July 1, 1974, from occupational disease resulting in temporary partial disability for work there shall be paid to the disabled employee during such disability a weekly compensation equal to sixty percent (60%) of the difference between the employee's average weekly wages, as defined in section 19 of this chapter, and the weekly wages at which the employee is actually employed after the disablement, for a period not to exceed three hundred (300) weeks. Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-eight (28) days. In case of partial disability after the period of temporary total disability, the latter period shall be included as a part of the maximum period allowed for partial disability.

For disablements occurring on and after July 1, 1974, from occupational disease resulting in temporary partial disability for work there shall be paid to the disabled employee during such disability a weekly compensation equal to sixty-six and two-thirds percent (66 2/3%) of the difference between the employee's average weekly wages, as defined in section 19 of this chapter, and the weekly wages at which he is actually employed after the disablement, for a period not to exceed three hundred (300) weeks. Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-one (21) days. In case of partial disability after the period of temporary total disability, the latter period shall be included as a part of the maximum period allowed for partial disability.

(g) For disabilities occurring on and after April 1, 1951, and prior to April 1, 1955, from occupational disease in the following schedule, the employee shall receive in lieu of all other compensation, on account of such disabilities, a weekly compensation of sixty percent (60%) of the employee's average weekly wage; for disabilities occurring on and after April 1, 1955, and prior to July 1, 1971, from occupational disease in the following schedule, the employee shall receive in addition to disability benefits not exceeding twenty-six (26) weeks on account of said occupational disease a weekly compensation of sixty percent (60%) of the employee's average weekly wages.

For disabilities occurring on and after July 1, 1971, and before July 1, 1977, from occupational disease in the following schedule, the employee shall receive in addition to disability benefits not exceeding

twenty-six (26) weeks on account of said occupational disease a weekly compensation of sixty percent (60%) of his average weekly wages not to exceed one hundred dollars (\$100) average weekly wages, for the period stated for such disabilities respectively.

For disabilities occurring on and after July 1, 1977, and before July 1, 1979, from occupational disease in the following schedule, the employee shall receive in addition to disability benefits not exceeding twenty-six (26) weeks on account of the occupational disease a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred twenty-five dollars (\$125) average weekly wages, for the period stated for the disabilities.

For disabilities occurring on and after July 1, 1979, and before July 1, 1988, from occupational disease in the following schedule, the employee shall receive in addition to disability benefits, not exceeding fifty-two (52) weeks on account of the occupational disease, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred twenty-five dollars (\$125) average weekly wages, for the period stated for the disabilities.

For disabilities occurring on and after July 1, 1988, and before July 1, 1989, from occupational disease in the following schedule, the employee shall receive in addition to disability benefits, not exceeding seventy-eight (78) weeks on account of the occupational disease, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred sixty-six dollars (\$166) average weekly wages, for the period stated for the disabilities.

For disabilities occurring on and after July 1, 1989, and before July 1, 1990, from occupational disease in the following schedule, the employee shall receive in addition to disability benefits, not exceeding seventy-eight (78) weeks on account of the occupational disease, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred eighty-three dollars (\$183) average weekly wages, for the period stated for the disabilities.

For disabilities occurring on and after July 1, 1990, and before July 1, 1991, from occupational disease in the following schedule, the employee shall receive in addition to disability benefits, not exceeding seventy-eight (78) weeks on account of the occupational disease, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed two hundred dollars (\$200) average

weekly wages, for the period stated for the disabilities.

(1) Amputations: For the loss by separation, of the thumb, sixty (60) weeks; of the index finger, forty (40) weeks; of the second finger, thirty-five (35) weeks; of the third or ring finger, thirty (30) weeks; of the fourth or little finger, twenty (20) weeks; of the hand by separation below the elbow, two hundred (200) weeks; of the arm above the elbow joint, two hundred fifty (250) weeks; of the big toe, sixty (60) weeks; of the second toe, thirty (30) weeks; of the third toe, twenty (20) weeks; of the fourth toe, fifteen (15) weeks; of the fifth or little toe, ten (10) weeks; of the foot below the knee joint, one hundred fifty (150) weeks; and of the leg above the knee joint, two hundred (200) weeks. The loss of more than one (1) phalange of a thumb or toe shall be considered as the loss of the entire thumb or toe. The loss of more than two (2) phalanges of a finger shall be considered as the loss of the entire finger. The loss of not more than one (1) phalange of a thumb or toe shall be considered as the loss of one-half (1/2) of the thumb or toe and compensation shall be paid for one-half (1/2) of the period for the loss of the entire thumb or toe. The loss of not more than two (2) phalanges of a finger shall be considered as the loss of one-half (1/2) the finger and compensation shall be paid for one-half (1/2) of the period for the loss of the entire finger.

(2) Loss of Use: The total permanent loss of the use of an arm, hand, thumb, finger, leg, foot, toe, or phalange shall be considered as the equivalent of the loss by separation of the arm, hand, thumb, finger, leg, foot, toe, or phalange and the compensation shall be paid for the same period as for the loss thereof by separation.

(3) Partial Loss of Use: For the permanent partial loss of the use of an arm, hand, thumb, finger, leg, foot, toe, or phalange, compensation shall be paid for the proportionate loss of the use of such arm, hand, thumb, finger, leg, foot, toe, or phalange.

(4) For disablements for occupational disease resulting in total permanent disability, five hundred (500) weeks.

(5) For the loss of both hands, or both feet, or the total sight of both eyes, or any two (2) of such losses resulting from the same disablement by occupational disease, five hundred (500) weeks.

(6) For the permanent and complete loss of vision by enucleation

of an eye or its reduction to one-tenth (1/10) of normal vision with glasses, one hundred fifty (150) weeks, and for any other permanent reduction of the sight of an eye, compensation shall be paid for a period proportionate to the degree of such permanent reduction without correction or glasses. However, when such permanent reduction without correction or glasses would result in one hundred percent (100%) loss of vision, but correction or glasses would result in restoration of vision, then compensation shall be paid for fifty percent (50%) of such total loss of vision without glasses plus an additional amount equal to the proportionate amount of such reduction with glasses, not to exceed an additional fifty percent (50%).

(7) For the permanent and complete loss of hearing, two hundred (200) weeks.

(8) In all other cases of permanent partial impairment, compensation proportionate to the degree of such permanent partial impairment, in the discretion of the worker's compensation board, not exceeding five hundred (500) weeks.

(9) In all cases of permanent disfigurement, which may impair the future usefulness or opportunities of the employee, compensation in the discretion of the worker's compensation board, not exceeding two hundred (200) weeks, except that no compensation shall be payable under this paragraph where compensation shall be payable under subdivisions (1) through (8). Where compensation for temporary total disability has been paid, this amount of compensation shall be deducted from any compensation due for permanent disfigurement.

With respect to disablements in the following schedule occurring on and after July 1, 1991, the employee shall receive in addition to temporary total disability benefits, not exceeding one hundred twenty-five (125) weeks on account of the disablement, compensation in an amount determined under the following schedule to be paid weekly at a rate of sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wages during the fifty-two (52) weeks immediately preceding the week in which the disablement occurred:

- (1) Amputation: For the loss by separation of the thumb, twelve
- (12) degrees of permanent impairment; of the index finger, eight
- (8) degrees of permanent impairment; of the second finger, seven

(7) degrees of permanent impairment; of the third or ring finger, six (6) degrees of permanent impairment; of the fourth or little finger, four (4) degrees of permanent impairment; of the hand by separation below the elbow joint, forty (40) degrees of permanent impairment; of the arm above the elbow, fifty (50) degrees of permanent impairment; of the big toe, twelve (12) degrees of permanent impairment; of the second toe, six (6) degrees of permanent impairment; of the third toe, four (4) degrees of permanent impairment; of the fourth toe, three (3) degrees of permanent impairment; of the fifth or little toe, two (2) degrees of permanent impairment; of separation of the foot below the knee joint, thirty-five (35) degrees of permanent impairment; and of the leg above the knee joint, forty-five (45) degrees of permanent impairment.

(2) Amputations occurring on or after July 1, 1997: For the loss by separation of any of the body parts described in subdivision (1) on or after July 1, 1997, the dollar values per degree applying on the date of the injury as described in subsection (h) shall be multiplied by two (2). However, the doubling provision of this subdivision does not apply to a loss of use that is not a loss by separation.

(3) The loss of more than one (1) phalange of a thumb or toe shall be considered as the loss of the entire thumb or toe. The loss of more than two (2) phalanges of a finger shall be considered as the loss of the entire finger. The loss of not more than one (1) phalange of a thumb or toe shall be considered as the loss of one-half (1/2) of the degrees of permanent impairment for the loss of the entire thumb or toe. The loss of not more than one (1) phalange of a finger shall be considered as the loss of one-third (1/3) of the finger and compensation shall be paid for one-third (1/3) of the degrees payable for the loss of the entire finger. The loss of more than one (1) phalange of the finger but not more than two (2) phalanges of the finger shall be considered as the loss of one-half (1/2) of the finger and compensation shall be paid for one-half (1/2) of the degrees payable for the loss of the entire finger.

(4) For the loss by separation of both hands or both feet or the total sight of both eyes or any two (2) such losses in the same

- accident, one hundred (100) degrees of permanent impairment.
- (5) For the permanent and complete loss of vision by enucleation or its reduction to one-tenth (1/10) of normal vision with glasses, thirty-five (35) degrees of permanent impairment.
- (6) For the permanent and complete loss of hearing in one (1) ear, fifteen (15) degrees of permanent impairment, and in both ears, forty (40) degrees of permanent impairment.
- (7) For the loss of one (1) testicle, (10) ten degrees of permanent impairment; for the loss of both testicles, thirty (30) degrees of permanent impairment.
- (8) Loss of use: The total permanent loss of the use of an arm, a hand, a thumb, a finger, a leg, a foot, a toe, or a phalange shall be considered as the equivalent of the loss by separation of the arm, hand, thumb, finger, leg, foot, toe, or phalange, and compensation shall be paid in the same amount as for the loss by separation. However, the doubling provision of subdivision (2) does not apply to a loss of use that is not a loss by separation.
- (9) Partial loss of use: For the permanent partial loss of the use of an arm, a hand, a thumb, a finger, a leg, a foot, a toe, or a phalange, compensation shall be paid for the proportionate loss of the use of the arm, hand, thumb, finger, leg, foot, toe, or phalange.
- (10) For disablements resulting in total permanent disability, the amount payable for impairment or five hundred (500) weeks of compensation, whichever is greater.
- (11) For any permanent reduction of the sight of an eye less than a total loss as specified in subdivision (3), the compensation shall be paid in an amount proportionate to the degree of a permanent reduction without correction or glasses. However, when a permanent reduction without correction or glasses would result in one hundred percent (100%) loss of vision, then compensation shall be paid for fifty percent (50%) of the total loss of vision without glasses, plus an additional amount equal to the proportionate amount of the reduction with glasses, not to exceed an additional fifty percent (50%).
- (12) For any permanent reduction of the hearing of one (1) or both ears, less than the total loss as specified in subdivision (4), compensation shall be paid in an amount proportionate to the degree of a permanent reduction.

(13) In all other cases of permanent partial impairment, compensation proportionate to the degree of a permanent partial impairment, in the discretion of the worker's compensation board, not exceeding one hundred (100) degrees of permanent impairment.

(14) In all cases of permanent disfigurement which may impair the future usefulness or opportunities of the employee, compensation, in the discretion of the worker's compensation board, not exceeding forty (40) degrees of permanent impairment except that no compensation shall be payable under this subdivision where compensation is payable elsewhere in this section.

(h) With respect to disablements occurring on and after July 1, 1991, compensation for permanent partial impairment shall be paid according to the degree of permanent impairment for the disablement determined under subsection (d) and the following:

(1) With respect to disablements occurring on and after July 1, 1991, and before July 1, 1992, for each degree of permanent impairment from one (1) to thirty-five (35), five hundred dollars (\$500) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), nine hundred dollars (\$900) per degree; for each degree of permanent impairment above fifty (50), one thousand five hundred dollars (\$1,500) per degree.

(2) With respect to disablements occurring on and after July 1, 1992, and before July 1, 1993, for each degree of permanent impairment from one (1) to twenty (20), five hundred dollars (\$500) per degree; for each degree of permanent impairment from twenty-one (21) to thirty-five (35), eight hundred dollars (\$800) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand three hundred dollars (\$1,300) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars (\$1,700) per degree.

(3) With respect to disablements occurring on and after July 1, 1993, and before July 1, 1997, for each degree of permanent impairment from one (1) to ten (10), five hundred dollars (\$500) per degree; for each degree of permanent impairment from eleven (11) to twenty (20), seven hundred dollars (\$700) per degree; for

each degree of permanent impairment from twenty-one (21) to thirty-five (35), one thousand dollars (\$1,000) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand four hundred dollars (\$1,400) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars (\$1,700) per degree.

(4) With respect to disablements occurring on and after July 1, 1997, and before July 1, 1998, for each degree of permanent impairment from one (1) to ten (10), seven hundred fifty dollars (\$750) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand dollars (\$1,000) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand four hundred dollars (\$1,400) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars (\$1,700) per degree.

(5) With respect to disablements occurring on and after July 1, 1998, and before July 1, 1999, for each degree of permanent impairment from one (1) to ten (10), seven hundred fifty dollars (\$750) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand dollars (\$1,000) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand four hundred dollars (\$1,400) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars (\$1,700) per degree.

(6) With respect to disablements occurring on and after July 1, 1999, **and before July 1, 2000**, for each degree of permanent impairment from one (1) to ten (10), nine hundred dollars (\$900) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand one hundred dollars (\$1,100) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand six hundred dollars (\$1,600) per degree; for each degree of permanent impairment above fifty (50), two thousand dollars (\$2,000) per degree.

(7) With respect to disablements occurring on and after July 1, 2000, and before July 1, 2001, for each degree of permanent impairment from one (1) to ten (10), one thousand one hundred dollars (\$1,100) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35),

one thousand three hundred dollars (\$1,300) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand dollars (\$2,000) per degree; for each degree of permanent impairment above fifty (50), two thousand five hundred fifty dollars (\$2,500) per degree.

(8) With respect to disablements occurring on and after July 1, 2001, for each degree of permanent impairment from one (1) to ten (10), one thousand three hundred dollars (\$1,300) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand five hundred dollars (\$1,500) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand four hundred dollars (\$2,400) per degree; for each degree of permanent impairment above fifty (50), three thousand dollars (\$3,000) per degree.

(i) The average weekly wages used in the determination of compensation for permanent partial impairment under subsections (g) and (h) shall not exceed the following:

(1) With respect to disablements occurring on or after July 1, 1991, and before July 1, 1992, four hundred ninety-two dollars (\$492).

(2) With respect to disablements occurring on or after July 1, 1992, and before July 1, 1993, five hundred forty dollars (\$540).

(3) With respect to disablements occurring on or after July 1, 1993, and before July 1, 1994, five hundred ninety-one dollars (\$591).

(4) With respect to disablements occurring on or after July 1, 1994, and before July 1, 1997, six hundred forty-two dollars (\$642).

(5) With respect to disablements occurring on or after July 1, 1997, and before July 1, 1998, six hundred seventy-two dollars (\$672).

(6) With respect to disablements occurring on or after July 1, 1998, and before July 1, 1999, seven hundred two dollars (\$702).

(7) With respect to disablements occurring on or after July 1, 1999, and before July 1, 2000, seven hundred thirty-two dollars (\$732).

(8) With respect to disablements occurring on or after July 1,

2000, and before July 1, 2001, seven hundred sixty-two dollars (\$762).

(9) With respect to injuries occurring on or after July 1, 2001, and before July 1, 2002, eight hundred twenty-two dollars (\$822).

(10) With respect to injuries occurring on or after July 1, 2002, eight hundred eighty-two dollars (\$882).

(j) If any employee, only partially disabled, refuses employment suitable to his capacity procured for him, he shall not be entitled to any compensation at any time during the continuance of such refusal unless, in the opinion of the worker's compensation board, such refusal was justifiable. The employee must be served with a notice setting forth the consequences of the refusal under this subsection. The notice must be in a form prescribed by the worker's compensation board.

(k) If an employee has sustained a permanent impairment or disability from an accidental injury other than an occupational disease in another employment than that in which he suffered a subsequent disability from an occupational disease, such as herein specified, the employee shall be entitled to compensation for the subsequent disability in the same amount as if the previous impairment or disability had not occurred. However, if the permanent impairment or disability resulting from an occupational disease for which compensation is claimed results only in the aggravation or increase of a previously sustained permanent impairment from an occupational disease or physical condition regardless of the source or cause of such previously sustained impairment from an occupational disease or physical condition, the board shall determine the extent of the previously sustained permanent impairment from an occupational disease or physical condition as well as the extent of the aggravation or increase resulting from the subsequent permanent impairment or disability, and shall award compensation only for that part of said occupational disease or physical condition resulting from the subsequent permanent impairment. An amputation of any part of the body or loss of any or all of the vision of one (1) or both eyes caused by an occupational disease shall be considered as a permanent impairment or physical condition.

(l) If an employee suffers a disablement from occupational disease for which compensation is payable while the employee is still receiving

or entitled to compensation for a previous injury by accident or disability by occupational disease in the same employment, he shall not at the same time be entitled to compensation for both, unless it be for a permanent injury, such as specified in subsection (g)(1), (g)(2), (g)(3), (g)(6), or (g)(7); but the employee shall be entitled to compensation for that disability and from the time of that disability which will cover the longest period and the largest amount payable under this chapter.

(m) If an employee receives a permanent disability from occupational disease such as specified in subsection (g)(1), (g)(2), (g)(3), (g)(6), or (g)(7), after having sustained another such permanent disability in the same employment the employee shall be entitled to compensation for both such disabilities, but the total compensation shall be paid by extending the period and not by increasing the amount of weekly compensation and, when such previous and subsequent permanent disabilities, in combination result in total permanent disability or permanent total impairment, compensation shall be payable for such permanent total disability or impairment, but payments made for the previous disability or impairment shall be deducted from the total payment of compensation due.

(n) When an employee has been awarded or is entitled to an award of compensation for a definite period under this chapter for disability from occupational disease, which disablement occurs on and after April 1, 1951, and prior to April 1, 1963, and such employee dies from any other cause than such occupational disease, payment of the unpaid balance of such compensation, not exceeding three hundred (300) weeks, shall be made to the employee's dependents of the second and third class as defined in sections 11 through 14 of this chapter, and compensation, not exceeding five hundred (500) weeks, shall be made to the employee's dependents of the first class as defined in sections 11 through 14 of this chapter. When an employee has been awarded or is entitled to an award of compensation for a definite period from an occupational disease wherein disablement occurs on and after April 1, 1963, and such employee dies from other causes than such occupational disease, payment of the unpaid balance of such compensation not exceeding three hundred fifty (350) weeks shall be paid to the employee's dependents of the second and third class as defined in sections 11 through 14 of this chapter and compensation, not

exceeding five hundred (500) weeks shall be made to the employee's dependents of the first class as defined in sections 11 through 14 of this chapter.

(o) Any payment made by the employer to the employee during the period of the employee's disability, or to the employee's dependents, which, by the terms of this chapter, was not due and payable when made, may, subject to the approval of the worker's compensation board, be deducted from the amount to be paid as compensation, but such deduction shall be made from the distal end of the period during which compensation must be paid, except in cases of temporary disability.

(p) When so provided in the compensation agreement or in the award of the worker's compensation board, compensation may be paid semimonthly, or monthly, instead of weekly.

(q) When the aggregate payments of compensation awarded by agreement or upon hearing to an employee or dependent under eighteen (18) years of age do not exceed one hundred dollars (\$100), the payment thereof may be made directly to such employee or dependent, except when the worker's compensation board shall order otherwise.

Whenever the aggregate payments of compensation, due to any person under eighteen (18) years of age, exceed one hundred dollars (\$100), the payment thereof shall be made to a trustee, appointed by the circuit or superior court, or to a duly qualified guardian, or, upon the order of the worker's compensation board, to a parent or to such minor person. The payment of compensation, due to any person eighteen (18) years of age or over, may be made directly to such person.

(r) If an employee, or a dependent, is mentally incompetent, or a minor at the time when any right or privilege accrues to the employee under this chapter, the employee's guardian or trustee may, in the employee's behalf, claim and exercise such right and privilege.

(s) All compensation payments named and provided for in this section, shall mean and be defined to be for only such occupational diseases and disabilities therefrom as are proved by competent evidence, of which there are or have been objective conditions or symptoms proven, not within the physical or mental control of the employee himself.

SECTION 9. IC 22-3-7-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 17. (a) During the period of disablement, the employer shall furnish or cause to be

furnished, free of charge to the employee, an attending physician for the treatment of his occupational disease, and in addition thereto such surgical, hospital, and nursing services and supplies as the attending physician or the worker's compensation board may deem necessary. If the employee is requested or required by the employer to submit to treatment outside the county of employment, ~~said~~ the employer shall also pay the reasonable expense of travel, food, and lodging necessary during the travel, but not to exceed the amount paid at the time of ~~said~~ the travel by the state of Indiana to its employees. **If the treatment or travel to or from the place of treatment causes a loss of working time to the employee, the employer shall reimburse the employee for the loss of wages using the basis of the employee's average daily wage.**

(b) During the period of disablement resulting from the occupational disease, the employer shall furnish such physician, services, and supplies, and the worker's compensation board may, on proper application of either party, require that treatment by such physician and such services and supplies be furnished by or on behalf of the employer as the board may deem reasonably necessary. After an employee's occupational disease has been adjudicated by agreement or award on the basis of permanent partial impairment and within the statutory period for review in such case as provided in section 27(i) of this chapter, the employer may continue to furnish a physician or a surgeon and other medical services and supplies, and the board may, within such statutory period for review as provided in section 27(i) of this chapter, on a proper application of either party, require that treatment by such physician or surgeon and such services and supplies be furnished by and on behalf of the employer as the board may deem necessary to limit or reduce the amount and extent of such impairment. The refusal of the employee to accept such services and supplies when so provided by or on behalf of the employer, shall bar the employee from all compensation otherwise payable during the period of such refusal and his right to prosecute any proceeding under this chapter shall be suspended and abated until such refusal ceases. The employee must be served with a notice setting forth the consequences of the refusal under this section. The notice must be in a form prescribed by the worker's compensation board. No compensation for permanent total impairment, permanent partial impairment, permanent disfigurement,

or death shall be paid or payable for that part or portion of such impairment, disfigurement, or death which is the result of the failure of such employee to accept such treatment, services, and supplies, provided that an employer may at any time permit an employee to have treatment for his disease or injury by spiritual means or prayer in lieu of such physician, services, and supplies.

(c) Regardless of when it occurs, where a compensable occupational disease results in the amputation of a body part, the enucleation of an eye, or the loss of natural teeth, the employer shall furnish an appropriate artificial member, braces, and prosthodontics. The cost of repairs to or replacements for the artificial members, braces, or prosthodontics that result from a compensable occupational disease pursuant to a prior award and are required due to either medical necessity or normal wear and tear, determined according to the employee's individual use, but not abuse, of the artificial member, braces, or prosthodontics, shall be paid from the second injury fund upon order or award of the worker's compensation board. The employee is not required to meet any other requirement for admission to the second injury fund.

(d) If an emergency or because of the employer's failure to provide such attending physician or such surgical, hospital, or nurse's services and supplies or such treatment by spiritual means or prayer as specified in this section, or for other good reason, a physician other than that provided by the employer treats the diseased employee within the period of disability, or necessary and proper surgical, hospital, or nurse's services and supplies are procured within ~~said~~ **the** period, the reasonable cost of such services and supplies shall, subject to approval of the worker's compensation board, be paid by the employer.

(e) This section may not be construed to prohibit an agreement between an employer and employees that has the approval of the board and that:

- (1) binds the parties to medical care furnished by providers selected by agreement before or after disablement; or
- (2) makes the findings of a provider chosen in this manner binding upon the parties.

(f) The employee and the employee's estate do not have liability to a health care provider for payment for services obtained under this section. The right to order payment for all services provided under this

chapter is solely with the board. All claims by a health care provider for payment for services are against the employer and the employer's insurance carrier, if any, and must be made with the board under this chapter.

SECTION 10. IC 22-3-7-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 19. (a) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability under this law with respect to occupational diseases occurring:

- (1) on and after July 1, 1974, and before July 1, 1976, the average weekly wages shall be considered to be:
 - (A) not more than one hundred thirty-five dollars (\$135); and
 - (B) not less than seventy-five dollars (\$75);
 - (2) on and after July 1, 1976, and before July 1, 1977, the average weekly wages shall be considered to be:
 - (A) not more than one hundred fifty-six dollars (\$156); and
 - (B) not less than seventy-five dollars (\$75);
 - (3) on and after July 1, 1977, and before July 1, 1979, the average weekly wages are considered to be:
 - (A) not more than one hundred eighty dollars (\$180); and
 - (B) not less than seventy-five dollars (\$75);
 - (4) on and after July 1, 1979, and before July 1, 1980, the average weekly wages are considered to be:
 - (A) not more than one hundred ninety-five dollars (\$195); and
 - (B) not less than seventy-five dollars (\$75);
 - (5) on and after July 1, 1980, and before July 1, 1983, the average weekly wages are considered to be:
 - (A) not more than two hundred ten dollars (\$210); and
 - (B) not less than seventy-five dollars (\$75);
 - (6) on and after July 1, 1983, and before July 1, 1984, the average weekly wages are considered to be:
 - (A) not more than two hundred thirty-four dollars (\$234); and
 - (B) not less than seventy-five dollars (\$75); and
 - (7) on and after July 1, 1984, and before July 1, 1985, the average weekly wages are considered to be:
 - (A) not more than two hundred forty-nine dollars (\$249); and
 - (B) not less than seventy-five dollars (\$75).
- (b) In computing compensation for temporary total disability,

temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1985, and before July 1, 1986, the average weekly wages are considered to be:

- (1) not more than two hundred sixty-seven dollars (\$267); and
- (2) not less than seventy-five dollars (\$75).

(c) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1986, and before July 1, 1988, the average weekly wages are considered to be:

- (1) not more than two hundred eighty-five dollars (\$285); and
- (2) not less than seventy-five dollars (\$75).

(d) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1988, and before July 1, 1989, the average weekly wages are considered to be:

- (1) not more than three hundred eighty-four dollars (\$384); and
- (2) not less than seventy-five dollars (\$75).

(e) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1989, and before July 1, 1990, the average weekly wages are considered to be:

- (1) not more than four hundred eleven dollars (\$411); and
- (2) not less than seventy-five dollars (\$75).

(f) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1990, and before July 1, 1991, the average weekly wages are considered to be:

- (1) not more than four hundred forty-one dollars (\$441); and
- (2) not less than seventy-five dollars (\$75).

(g) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1991, and before July 1, 1992, the average weekly wages are considered to be:

- (1) not more than four hundred ninety-two dollars (\$492); and
- (2) not less than seventy-five dollars (\$75).

(h) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1992, and before

July 1, 1993, the average weekly wages are considered to be:

- (1) not more than five hundred forty dollars (\$540); and
- (2) not less than seventy-five dollars (\$75).

(i) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1993, and before July 1, 1994, the average weekly wages are considered to be:

- (1) not more than five hundred ninety-one dollars (\$591); and
- (2) not less than seventy-five dollars (\$75).

(j) In computing compensation for temporary total disability, temporary partial disability and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1994, and before July 1, 1997, the average weekly wages are considered to be:

- (1) not more than six hundred forty-two dollars (\$642); and
- (2) not less than seventy-five dollars (\$75).

(k) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, the average weekly wages are considered to be:

- (1) with respect to occupational diseases occurring on and after July 1, 1997, and before July 1, 1998:

- (A) not more than six hundred seventy-two dollars (\$672); and
- (B) not less than seventy-five dollars (\$75);

- (2) with respect to occupational diseases occurring on and after July 1, 1998, and before July 1, 1999:

- (A) not more than seven hundred two dollars (\$702); and
- (B) not less than seventy-five dollars (\$75);

- (3) with respect to occupational diseases occurring on and after July 1, 1999, and before July 1, 2000:

- (A) not more than seven hundred thirty-two dollars (\$732);
- and

- (B) not less than seventy-five dollars (\$75); ~~and~~

- (4) with respect to occupational diseases ~~occurring~~ **occurring** on and after July 1, 2000, **and before July 1, 2001:**

- (A) not more than seven hundred sixty-two dollars (\$762); and
- (B) not less than seventy-five dollars (\$75);

- (5) with respect to disablements occurring on and after July 1, 2001, and before July 1, 2002:**

- (A) not more than eight hundred twenty-two dollars**

- (S822); and**
(B) not less than seventy-five dollars (\$75); and
(6) with respect to disablements occurring on and after July 1, 2002:
(A) not more than eight hundred eighty-two dollars (\$882); and
(B) not less than seventy-five dollars (\$75).

(l) The maximum compensation that shall be paid for occupational disease and its results under any one (1) or more provisions of this chapter with respect to disability or death occurring:

- (1) on and after July 1, 1974, and before July 1, 1976, shall not exceed forty-five thousand dollars (\$45,000) in any case;
- (2) on and after July 1, 1976, and before July 1, 1977, shall not exceed fifty-two thousand dollars (\$52,000) in any case;
- (3) on and after July 1, 1977, and before July 1, 1979, may not exceed sixty thousand dollars (\$60,000) in any case;
- (4) on and after July 1, 1979, and before July 1, 1980, may not exceed sixty-five thousand dollars (\$65,000) in any case;
- (5) on and after July 1, 1980, and before July 1, 1983, may not exceed seventy thousand dollars (\$70,000) in any case;
- (6) on and after July 1, 1983, and before July 1, 1984, may not exceed seventy-eight thousand dollars (\$78,000) in any case; and
- (7) on and after July 1, 1984, and before July 1, 1985, may not exceed eighty-three thousand dollars (\$83,000) in any case.

(m) The maximum compensation with respect to disability or death occurring on and after July 1, 1985, and before July 1, 1986, which shall be paid for occupational disease and the results thereof under the provisions of this chapter or under any combination of its provisions may not exceed eighty-nine thousand dollars (\$89,000) in any case. The maximum compensation with respect to disability or death occurring on and after July 1, 1986, and before July 1, 1988, which shall be paid for occupational disease and the results thereof under the provisions of this chapter or under any combination of its provisions may not exceed ninety-five thousand dollars (\$95,000) in any case. The maximum compensation with respect to disability or death occurring on and after July 1, 1988, and before July 1, 1989, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of its provisions may not exceed one hundred

twenty-eight thousand dollars (\$128,000) in any case.

(n) The maximum compensation with respect to disability or death occurring on and after July 1, 1989, and before July 1, 1990, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of its provisions may not exceed one hundred thirty-seven thousand dollars (\$137,000) in any case.

(o) The maximum compensation with respect to disability or death occurring on and after July 1, 1990, and before July 1, 1991, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of its provisions may not exceed one hundred forty-seven thousand dollars (\$147,000) in any case.

(p) The maximum compensation with respect to disability or death occurring on and after July 1, 1991, and before July 1, 1992, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of the provisions of this chapter may not exceed one hundred sixty-four thousand dollars (\$164,000) in any case.

(q) The maximum compensation with respect to disability or death occurring on and after July 1, 1992, and before July 1, 1993, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of the provisions of this chapter may not exceed one hundred eighty thousand dollars (\$180,000) in any case.

(r) The maximum compensation with respect to disability or death occurring on and after July 1, 1993, and before July 1, 1994, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of the provisions of this chapter may not exceed one hundred ninety-seven thousand dollars (\$197,000) in any case.

(s) The maximum compensation with respect to disability or death occurring on and after July 1, 1994, and before July 1, 1997, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of the provisions of this chapter may not exceed two hundred fourteen thousand dollars (\$214,000) in any case.

(t) The maximum compensation that shall be paid for occupational disease and the results of an occupational disease under this chapter or under any combination of the provisions of this chapter may not exceed the following amounts in any case:

(1) With respect to disability or death occurring on and after July 1, 1997, and before July 1, 1998, two hundred twenty-four thousand dollars (\$224,000).

(2) With respect to disability or death occurring on and after July 1, 1998, and before July 1, 1999, two hundred thirty-four thousand dollars (\$234,000).

(3) With respect to disability or death occurring on and after July 1, 1999, and before July 1, 2000, two hundred forty-four thousand dollars (\$244,000).

(4) With respect to disability or death occurring on and after July 1, 2000, **and before July 1, 2001**, two hundred fifty-four thousand dollars (\$254,000).

(5) With respect to disability or death occurring on and after July 1, 2001, and before July 1, 2002, two hundred seventy-four thousand dollars (\$274,000).

(6) With respect to disability or death occurring on and after July 1, 2002, two hundred ninety-four thousand dollars (\$294,000).

(u) For all disabilities occurring before July 1, 1985, "average weekly wages" shall mean the earnings of the injured employee in the employment in which the employee was working at the time of the last exposure during the period of fifty-two (52) weeks immediately preceding the last day of the last exposure divided by fifty-two (52). If the employee lost seven (7) or more calendar days during the period, although not in the same week, then the earnings for the remainder of the fifty-two (52) weeks shall be divided by the number of weeks and parts thereof remaining after the time lost has been deducted. Where the employment prior to the last day of the last exposure extended over a period of less than fifty-two (52) weeks, the method of dividing the earnings during that period by the number of weeks and parts thereof during which the employee earned wages shall be followed if results just and fair to both parties will be obtained. Where by reason of the shortness of the time during which the employee has been in the employment of the employer or of the casual nature or terms of the employment it is impracticable to compute the average weekly wages as above defined, regard shall be had to the average weekly amount which, during the fifty-two (52) weeks previous to the last day of the last exposure, was being earned by a person in the same grade

employed at the same work by the same employer, or if there is no person so employed, by a person in the same grade employed in that same class of employment in the same district. Whenever allowances of any character are made to an employee in lieu of wages or a specified part of the wage contract, they shall be deemed a part of the employee's earnings.

(v) For all disabilities occurring on and after July 1, 1985, "average weekly wages" means the earnings of the injured employee during the period of fifty-two (52) weeks immediately preceding the disability divided by fifty-two (52). If the employee lost seven (7) or more calendar days during the period, although not in the same week, then the earnings for the remainder of the fifty-two (52) weeks shall be divided by the number of weeks and parts of weeks remaining after the time lost has been deducted. If employment before the date of disability extended over a period of less than fifty-two (52) weeks, the method of dividing the earnings during that period by the number of weeks and parts of weeks during which the employee earned wages shall be followed if results just and fair to both parties will be obtained. If by reason of the shortness of the time during which the employee has been in the employment of the employer or of the casual nature or terms of the employment it is impracticable to compute the average weekly wages for the employee, the employee's average weekly wages shall be considered to be the average weekly amount that, during the fifty-two (52) weeks before the date of disability, was being earned by a person in the same grade employed at the same work by the same employer or, if there is no person so employed, by a person in the same grade employed in that same class of employment in the same district. Whenever allowances of any character are made to an employee instead of wages or a specified part of the wage contract, they shall be considered a part of the employee's earnings.

(w) The provisions of this article may not be construed to result in an award of benefits in which the number of weeks paid or to be paid for temporary total disability, temporary partial disability, or permanent total disability benefits combined exceeds five hundred (500) weeks. This section shall not be construed to prevent a person from applying for an award under IC 22-3-3-13. However, in case of permanent total disability resulting from a disablement occurring on or after January 1, 1998, the minimum total benefit shall not be less than seventy-five

thousand dollars (\$75,000).

P.L.32-2000

[H.1051. Approved March 16, 2000.]

AN ACT TO amend the Indiana Code concerning motor vehicles.

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

SECTION 1. IC 9-24-19 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]:

Chapter 19. Penalty Provisions for Operating a Motor Vehicle With Suspended or Revoked Driving Privileges, Licenses, or Permits

Sec. 1. Except as provided in sections 2, 3, and 5 of this chapter, a person who operates a motor vehicle upon a highway while the person's driving privilege, license, or permit is suspended or revoked commits a Class A infraction.

Sec. 2. A person who operates a motor vehicle upon a highway when the person knows that the person's driving privilege, license, or permit is suspended or revoked, when less than ten (10) years have elapsed between:

- (1) the date a judgment was entered against the person for a prior unrelated violation of section 1 of this chapter, this section, IC 9-1-4-52 (repealed July 1, 1991), or IC 9-24-18-5(a) (repealed July 1, 2000); and**
- (2) the date the violation described in subdivision (1) was committed;**

commits a Class A misdemeanor.

Sec. 3. A person who operates a motor vehicle upon a highway when the person knows that the person's driving privilege, license, or permit is suspended or revoked, when the person's suspension or revocation was a result of the person's conviction of an offense (as defined in IC 35-41-1-19) commits a Class A misdemeanor.

Sec. 4. (a) A person who violates section 3 of this chapter commits a Class D felony if the operation results in bodily injury or serious bodily injury.

(b) A person who violates section 3 of this chapter commits a Class C felony if the operation results in the death of another person.

Sec. 5. (a) In addition to any other penalty imposed for a conviction under this chapter, the court shall recommend that the person's driving privileges be suspended for a fixed period of not less than ninety (90) days and not more than two (2) years.

(b) The court shall specify:

(1) the length of the fixed period of suspension; and

(2) the date the fixed period of suspension begins;

whenever the court makes a recommendation under subsection (a).

Sec. 6. The bureau shall, upon receiving a record of conviction of a person upon a charge of driving a vehicle while the person's driving privilege, permit, or license was suspended, extend the period of suspension for a fixed period of not less than ninety (90) days and not more than two (2) years. The bureau shall fix this period in accordance with the recommendation of the court that entered the conviction, as provided in section 6 of this chapter.

Sec. 7. In a prosecution under this chapter, the burden is on the defendant to prove by a preponderance of the evidence that the defendant had been issued a driving license or permit that was valid at the time of the alleged offense.

Sec. 8. Service by the bureau of motor vehicles of a notice of an order or an order suspending or revoking a person's driving privileges by mailing the notice or order by first class mail to the defendant under this chapter at the last address shown for the defendant in the records of the bureau of motor vehicles establishes a rebuttable presumption that the defendant knows that the person's driving privileges are suspended.

SECTION 2. IC 9-30-5-15, AS AMENDED BY P.L.266-1999, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 15. (a) In addition to any criminal penalty imposed for an offense under this chapter, the court shall:

(1) order:

(A) that the person be imprisoned for at least five (5) days; or

(B) the person to perform at least thirty (30) days of

community **restitution or** service; and

- (2) order the person to receive an assessment of the person's degree of alcohol and drug abuse and, if appropriate, to successfully complete an alcohol or drug abuse treatment program, including an alcohol deterrent program if the person suffers from alcohol abuse;

if the person has one (1) previous conviction of operating while intoxicated.

(b) In addition to any criminal penalty imposed for an offense under this chapter, the court shall:

(1) order:

- (A) that the person be imprisoned for at least ten (10) days; or
- (B) the person to perform at least sixty (60) days of community **restitution or** service; and

- (2) order the person to receive an assessment of the person's degree of alcohol and drug abuse and, if appropriate, to successfully complete an alcohol or drug abuse treatment program, including an alcohol deterrent program if the person suffers from alcohol abuse;

if the person has at least two (2) previous convictions of operating while intoxicated.

(c) Notwithstanding IC 35-50-2-2 and IC 35-50-3-1, a sentence imposed under this section may not be suspended. The court may require that the person serve the term of imprisonment in an appropriate facility at whatever time or intervals (consecutive or intermittent) determined appropriate by the court. However:

- (1) at least forty-eight (48) hours of the sentence must be served consecutively; and
- (2) the entire sentence must be served within six (6) months after the date of sentencing.

(d) Notwithstanding IC 35-50-6, a person does not earn credit time while serving a sentence imposed under this section.

SECTION 3. IC 9-30-10-4, AS AMENDED BY P.L.1-2000, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 4. (a) A person who has accumulated at least two (2) judgments within a ten (10) year period for any of the following violations, singularly or in combination, not arising out of the same incident, and with at least one (1) violation occurring after March 31,

1984, is a habitual violator:

- (1) Reckless homicide resulting from the operation of a motor vehicle.
- (2) Voluntary or involuntary manslaughter resulting from the operation of a motor vehicle.
- (3) Failure of the driver of a motor vehicle involved in an accident resulting in death or injury to any person to stop at the scene of the accident and give the required information and assistance.
- (4) Operation of a vehicle while intoxicated resulting in death.
- (5) Before July 1, 1997, operation of a vehicle with at least ten-hundredths percent (0.10%) alcohol in the blood resulting in death.
- (6) After June 30, 1997, operation of a vehicle with an alcohol concentration equivalent to at least ten-hundredths (0.10) gram of alcohol per:
 - (A) one hundred (100) milliliters of the blood; or
 - (B) two hundred ten (210) liters of the breath;
 resulting in death.

(b) A person who has accumulated at least three (3) judgments within a ten (10) year period for any of the following violations, singularly or in combination, not arising out of the same incident, and with at least one (1) violation occurring after March 31, 1984, is a habitual violator:

- (1) Operation of a vehicle while intoxicated.
- (2) Before July 1, 1997, operation of a vehicle with at least ten-hundredths percent (0.10%) alcohol in the blood.
- (3) After June 30, 1997, operation of a vehicle with an alcohol concentration equivalent to at least ten-hundredths (0.10) gram of alcohol per:
 - (A) one hundred (100) milliliters of the blood; or
 - (B) two hundred ten (210) liters of the breath.
- (4) Operating a motor vehicle while the person's license to do so has been suspended or revoked as a result of the person's conviction of an offense under IC 9-1-4-52 (repealed July 1, 1991), ~~or~~ IC 9-24-18-5(b) **(repealed July 1, 2000), IC 9-24-19-3, or IC 9-24-19-5.**
- (5) Operating a motor vehicle without ever having obtained a license to do so.

- (6) Reckless driving.
- (7) Criminal recklessness involving the operation of a motor vehicle.
- (8) Drag racing or engaging in a speed contest in violation of law.
- (9) Violating IC 9-4-1-40 (repealed July 1, 1991), IC 9-4-1-46 (repealed July 1, 1991), IC 9-26-1-1(1), IC 9-26-1-1(2), IC 9-26-1-1(4), IC 9-26-1-2(1), IC 9-26-1-2(2), IC 9-26-1-3, or IC 9-26-1-4.
- (10) Any felony under an Indiana motor vehicle statute or any felony in the commission of which a motor vehicle is used.

A judgment for a violation enumerated in subsection (a) shall be added to the violations described in this subsection for the purposes of this subsection.

(c) A person who has accumulated at least ten (10) judgments within a ten (10) year period for any traffic violation, except a parking or an equipment violation, of the type required to be reported to the bureau, singularly or in combination, not arising out of the same incident, and with at least one (1) violation occurring after March 31, 1984, is a habitual violator. However, at least one (1) of the judgments must be for a violation enumerated in subsection (a) or (b). A judgment for a violation enumerated in subsection (a) or (b) shall be added to the judgments described in this subsection for the purposes of this subsection.

SECTION 4. IC 11-12-1-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 2.5. (a) The community corrections programs described in section 2 of this chapter may include the following:

- (1) Residential or work release programs.
- (2) House arrest, home detention, and electronic monitoring programs.
- (3) Community ~~service~~ restitution **or service** programs.
- (4) Victim-offender reconciliation programs.
- (5) Jail services programs.
- (6) Jail work crews.
- (7) Community work crews.
- (8) Juvenile detention alternative programs.
- (9) Day reporting programs.
- (10) Other community corrections programs approved by the

department.

(b) The community corrections board may also coordinate and operate educational, mental health, drug or alcohol abuse counseling, housing, as a part of any of these programs, or supervision services for persons described in section 2 of this chapter.

SECTION 5. IC 11-12-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1. As used in this chapter, "community corrections program" means a community based program that provides preventive services, services to criminal or juvenile offenders, services to persons charged with a crime or an act of delinquency, services to persons diverted from the criminal or delinquency process, services to persons sentenced to imprisonment, or services to victims of crime or delinquency that may include the following:

- (1) Residential programs.
- (2) Work release programs.
- (3) House arrest, home detention, and electronic monitoring programs.
- (4) Community ~~service~~ restitution **or service** programs.
- (5) Victim-offender reconciliation programs.
- (6) Jail services programs.
- (7) Jail work crews.
- (8) Community work crews.
- (9) Juvenile detention alternative programs.
- (10) Study release programs.

SECTION 6. IC 11-14-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 3. (a) A transition officer to whom a boot camp graduate reports under section 1 of this chapter shall coordinate conditions of transition for the graduate with the probation department of the sentencing court, including the following:

- (1) Continued education.
 - (2) Follow-up counseling.
 - (3) Community **restitution or** service work.
 - (4) Continuing drug and alcohol treatment intervention.
 - (5) Activities designed to assist a boot camp graduate with reintegration into the community.
- (b) A transition officer shall schedule personal contact with the

graduate.

SECTION 7. IC 12-13-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 2. The division shall administer the following:

- (1) The Interstate Compact on the Placement of Children (IC 12-17-8).
- (2) Any sexual offense services.
- (3) A child development associate scholarship program.
- (4) Any school age dependent care program.
- (5) Migrant day care services.
- (6) Any youth services programs.
- (7) Project safe place.
- (8) Prevention services to high risk youth.
- (9) Any commodities program.
- (10) The migrant nutrition program.
- (11) Any emergency shelter programs.
- (12) Any weatherization programs.
- (13) The Housing Assistance Act of 1937 (42 U.S.C. 1437).
- (14) The home visitation and social services program.
- (15) The educational consultants program.
- (16) Child abuse prevention programs.
- (17) Community **restitution or** service programs.
- (18) The crisis nursery program.
- (19) Energy assistance programs.
- (20) Domestic violence programs.
- (21) Social services programs.
- (22) Assistance to migrants and seasonal farmworkers.
- (23) The step ahead comprehensive early childhood grant program.
- (24) Any other program:
 - (A) designated by the general assembly; or
 - (B) administered by the federal government under grants consistent with the duties of the division.

SECTION 8. IC 14-15-11-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 11. (a) Except as provided in subsection (b), a person who operates a motorboat upon public waters while the person's Indiana driver's license is suspended or revoked commits a Class A infraction. However, if:

(1) a person knowingly or intentionally violates this subsection; and
(2) less than ten (10) years have elapsed between the date a judgment was entered against the person for a prior unrelated violation of this subsection, IC 9-1-4-52 (repealed July 1, 1991), **or IC 9-24-18-5 (repealed July 1, 2000), or IC 9-24-19** and the date the violation described in subdivision (1) was committed; the person commits a Class A misdemeanor.

(b) If:

(1) a person operates a motorboat upon public waters while the person's Indiana driver's license is suspended or revoked; and
(2) the person's suspension or revocation was a result of the person's conviction of an offense (as defined in IC 35-41-1-19); the person commits a Class A misdemeanor. However, notwithstanding IC 35-50-3-2, a person who violates this subsection shall be imprisoned for a fixed term of not less than sixty (60) days and not more than one (1) year. Notwithstanding IC 35-50-3-1, the court may not suspend any part of the sentence except that part of the sentence exceeding sixty (60) days.

(c) In addition to any other penalty imposed for a conviction under this section, the court shall recommend that the person's privileges to operate a motorboat upon public waters be suspended for a fixed period of not less than ninety (90) days and not more than two (2) years.

(d) The bureau, upon receiving a record of conviction of a person on a charge of operating a motorboat while the person's driver's license was suspended, shall extend the period of suspension for a fixed period of not less than ninety (90) days and not more than two (2) years. The bureau shall fix this period in accordance with the recommendation of the court that entered the conviction.

(e) In a prosecution under this section, the burden is on the defendant to prove by a preponderance of the evidence that, at the time of the alleged offense, the defendant held a valid Indiana driver's license.

SECTION 9. IC 15-5-1.1-15.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 15.1. (a) The board may refuse to issue a registration or may issue a probationary registration to an applicant for registration as a veterinary technician under this chapter if:

- (1) the applicant has been disciplined by a licensing entity of another state or jurisdiction; and
- (2) the violation for which the applicant was disciplined has a direct bearing on the applicant's ability to competently practice as a veterinary technician in Indiana.

(b) Whenever issuing a probationary registration under this section, the board may impose any or a combination of the following conditions:

- (1) Report regularly to the board upon the matters that are the basis of the discipline of the other state or jurisdiction.
- (2) Limit practice to those areas prescribed by the board.
- (3) Continue or renew professional education.
- (4) Engage in community **restitution or** service without compensation for a number of hours specified by the board.

(c) The board shall remove any limitations placed on a probationary registration issued under this section if the board finds after a hearing that the deficiency that required disciplinary action has been remedied.

(d) This section does not apply to an individual who currently holds a registration certificate under this chapter.

SECTION 10. IC 25-1-9-9, AS AMENDED BY P.L.22-1999, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 9. (a) The board may impose any of the following sanctions, singly or in combination, if it finds that a practitioner is subject to disciplinary sanctions under section 4, 5, 6, or 6.7 of this chapter or IC 25-1-5-4:

- (1) Permanently revoke a practitioner's license.
- (2) Suspend a practitioner's license.
- (3) Censure a practitioner.
- (4) Issue a letter of reprimand.
- (5) Place a practitioner on probation status and require the practitioner to:
 - (A) report regularly to the board upon the matters that are the basis of probation;
 - (B) limit practice to those areas prescribed by the board;
 - (C) continue or renew professional education under a preceptor, or as otherwise directed or approved by the board, until a satisfactory degree of skill has been attained in those areas that are the basis of the probation; or

(D) perform or refrain from performing any acts, including community **restitution or** service without compensation, that the board considers appropriate to the public interest or to the rehabilitation or treatment of the practitioner.

(6) Assess a fine against the practitioner in an amount not to exceed one thousand dollars (\$1,000) for each violation listed in section 4 of this chapter, except for a finding of incompetency due to a physical or mental disability. When imposing a fine, the board shall consider a practitioner's ability to pay the amount assessed. If the practitioner fails to pay the fine within the time specified by the board, the board may suspend the practitioner's license without additional proceedings. However, a suspension may not be imposed if the sole basis for the suspension is the practitioner's inability to pay a fine.

(b) The board may withdraw or modify the probation under subsection (a)(5) if it finds, after a hearing, that the deficiency that required disciplinary action has been remedied, or that changed circumstances warrant a modification of the order.

SECTION 11. IC 25-1-9-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 16. (a) The board may refuse to issue a license or may issue a probationary license to an applicant for licensure if:

- (1) the applicant has been disciplined by a licensing entity of another state or jurisdiction, or has committed an act that would have subjected the applicant to the disciplinary process had the applicant been licensed in Indiana when the act occurred; and
- (2) the violation for which the applicant was, or could have been, disciplined has a direct bearing on the applicant's ability to competently practice in Indiana.

(b) Whenever the board issues a probationary license, the board may impose one (1) or more of the following conditions:

- (1) Report regularly to the board upon the matters that are the basis of the discipline of the other state or jurisdiction.
- (2) Limit practice to those areas prescribed by the board.
- (3) Continue or renew professional education.
- (4) Engage in community **restitution or** service without compensation for a number of hours specified by the board.
- (5) Perform or refrain from performing an act that the board

considers appropriate to the public interest or to the rehabilitation or treatment of the applicant.

(c) The board shall remove any limitations placed on a probationary license under this section if the board finds after a hearing that the deficiency that required disciplinary action has been remedied.

SECTION 12. IC 25-1-11-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 12. (a) The board may impose any of the following sanctions, singly or in combination, if the board finds that a practitioner is subject to disciplinary sanctions under sections 5 through 9 of this chapter:

- (1) Permanently revoke a practitioner's license.
- (2) Suspend a practitioner's license.
- (3) Censure a practitioner.
- (4) Issue a letter of reprimand.
- (5) Place a practitioner on probation status and require the practitioner to:
 - (A) report regularly to the board upon the matters that are the basis of probation;
 - (B) limit practice to those areas prescribed by the board;
 - (C) continue or renew professional education approved by the board until a satisfactory degree of skill has been attained in those areas that are the basis of the probation; or
 - (D) perform or refrain from performing any acts, including community **restitution or** service without compensation, that the board considers appropriate to the public interest or to the rehabilitation or treatment of the practitioner.
- (6) Assess a civil penalty against the practitioner for not more than one thousand dollars (\$1,000) for each violation listed in sections 5 through 9 of this chapter except for a finding of incompetency due to a physical or mental disability.

(b) When imposing a civil penalty under subsection (a)(6), the board shall consider a practitioner's ability to pay the amount assessed. If the practitioner fails to pay the civil penalty within the time specified by the board, the board may suspend the practitioner's license without additional proceedings. However, a suspension may not be imposed if the sole basis for the suspension is the practitioner's inability to pay a civil penalty.

(c) The board may withdraw or modify the probation under

subsection (a)(5) if the board finds after a hearing that the deficiency that required disciplinary action has been remedied or that changed circumstances warrant a modification of the order.

SECTION 13. IC 25-22.5-5-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 2.5. (a) The board may:

- (1) refuse to issue a license;
- (2) issue an unlimited license; or
- (3) issue a probationary license to an applicant for licensure by examination or endorsement;

if the applicant has had a license revoked under this chapter and is applying for a new license after the expiration of the period prescribed by IC 25-1-9-12.

(b) When issuing a probationary license under this section, the board may require the individual holding the license to perform any of the following acts as a condition for the issuance of a probationary license:

- (1) Submit a regular report to the board concerning matters that are the basis of probation.
- (2) Limit the practice of the individual to the areas prescribed by the board.
- (3) Continue or renew the individual's professional education.
- (4) Perform or refrain from performing acts, as the board considers appropriate to the public interest or the rehabilitation of the individual.
- (5) Engage in community **restitution or** service without compensation for a number of hours specified by the board.
- (6) Any combination of these conditions.

(c) If the board determines following a hearing that the deficiency requiring disciplinary action concerning the individual has been remedied, the board shall remove any limitation placed on the individual's license under subsection (b).

SECTION 14. IC 25-23.5-5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 8. (a) If the committee issues a probationary certificate under section 7 of this chapter, the committee may require the person who holds the certificate to perform one (1) or more of the following conditions:

- (1) Report regularly to the committee upon a matter that is the basis for the probation.

- (2) Limit practice to areas prescribed by the committee.
- (3) Continue or renew professional education.
- (4) Engage in community **restitution or** service without compensation for a number of hours specified by the committee.

(b) The committee shall remove a limitation placed on a probationary certificate if after a hearing the committee finds that the deficiency that caused the limitation has been remedied.

SECTION 15. IC 25-27.5-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 3. (a) If the committee issues a probationary certificate under section 2 of this chapter, the committee may require the individual who holds the certificate to meet at least one (1) of the following conditions:

- (1) Report regularly to the committee upon a matter that is the basis for the probation.
- (2) Limit practice to areas prescribed by the committee.
- (3) Continue or renew professional education.
- (4) Engage in community **restitution or** service without compensation for a number of hours specified by the committee.

(b) The committee shall remove a limitation placed on a probationary certificate if after a hearing the committee finds that the deficiency that caused the limitation has been remedied.

SECTION 16. IC 31-14-12-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 3. (a) If the court finds that a party is delinquent as a result of an intentional violation of an order for support, the court may find the party in contempt of court.

(b) The court may order a party who is found in contempt of court under this section to perform community **restitution or** service without compensation in a manner specified by the court.

SECTION 17. IC 31-14-15-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 4. A court that finds a violation without justifiable cause by a custodial parent of an injunction or a temporary restraining order issued under this chapter (or IC 31-6-6.1-12.1 before its repeal):

- (1) shall find the custodial parent in contempt of court;
- (2) shall order the exercise of visitation that was not exercised due to the violation under this section (or IC 31-6-6.1-12.1(e) before its repeal) at a time the court considers compatible with the schedules of the noncustodial parent and the child;

- (3) may order payment by the custodial parent of reasonable attorney's fees, costs, and expenses to the noncustodial parent; and
- (4) may order the custodial parent to perform community **restitution or** service without compensation in a manner specified by the court.

SECTION 18. IC 31-16-12-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 6. If the court finds that a party is delinquent as a result of an intentional violation of an order for support, the court may find the party in contempt of court. The court may order a party who is found in contempt of court under this section to perform community **restitution or** service without compensation in a manner specified by the court.

SECTION 19. IC 31-17-4-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 8. A court that finds an intentional violation without justifiable cause by a custodial parent of an injunction or a temporary restraining order issued under this chapter (or IC 31-1-11.5-26 before its repeal):

- (1) shall find the custodial parent in contempt of court;
- (2) shall order the exercise of visitation that was not exercised due to the violation under this section at a time the court considers compatible with the schedules of the noncustodial parent and the child;
- (3) may order payment by the custodial parent of reasonable attorney's fees, costs, and expenses to the noncustodial parent; and
- (4) may order the custodial parent to perform community **restitution or** service without compensation in a manner specified by the court.

SECTION 20. IC 31-37-5-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 7. (a) If a child is alleged to have committed an act that would be an offense under IC 9-30-5 if committed by an adult, a juvenile court shall recommend the immediate suspension of the child's driving privileges as provided in IC 9-30-5. If a court recommends suspension of a child's driving privileges under this section, the bureau of motor vehicles shall comply with the recommendation of suspension as provided in IC 9-30-6-12.**

(b) If a court recommends suspension of a child's driving privileges under this section, the court may order the bureau of motor vehicles to reinstate the child's driving privileges as provided in IC 9-30-6-11.

(c) If a juvenile court orders the bureau of motor vehicles to reinstate a child's driving privileges under subsection (b), the bureau shall comply with the order. Unless the order for reinstatement is issued as provided under IC 9-30-6-11(a)(2) because of a violation of the speedy trial provisions applicable to the juvenile court, the bureau shall also do the following:

(1) Remove any record of the suspension from the bureau's record keeping system.

(2) Reinstate the privileges without cost to the person.

(d) If a juvenile court orders a suspension under this section and the child did not refuse to submit to a chemical test offered under IC 9-30-6-2 during the investigation of the delinquent act that would have been an offense under IC 9-30-5 if committed by an adult, the juvenile court may grant the child probationary driving privileges for one hundred eighty (180) days in conformity with the procedures in IC 9-30-5-12. The standards and procedures in IC 9-30-5-11 and IC 9-30-5-13 apply to an action under this subsection.

(e) If a proceeding described in this section is terminated in favor of the child and the child did not refuse to submit to a chemical test offered as provided under IC 9-30-6-2 during the investigation of the delinquent act that would be an offense under IC 9-30-5 if committed by an adult, the bureau shall remove any record of the suspension, including the reasons for the suspension, from the child's official driving record.

(f) The bureau of motor vehicles may adopt rules under IC 4-22-2 to carry out this section.

SECTION 21. IC 31-37-19-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 5. (a) This section applies if a child is a delinquent child under IC 31-37-1.

(b) The juvenile court may, in addition to an order under section 6 of this chapter, enter at least one (1) of the following dispositional decrees:

(1) Order supervision of the child by:

(A) the probation department; or

(B) the county office of family and children.

As a condition of probation under this subdivision, the court shall after a determination under ~~IC 5-2-12-4(2)~~ **IC 5-2-12-4(3)** require a child who is adjudicated a delinquent child for an act that would be an offense described in IC 5-2-12-4(1) if committed by an adult to register with a local law enforcement authority under IC 5-2-12.

(2) Order the child to receive outpatient treatment:

(A) at a social service agency or a psychological, a psychiatric, a medical, or an educational facility; or

(B) from an individual practitioner.

(3) Order the child to surrender the child's driver's license to the court for a specified period of time.

(4) Order the child to pay restitution if the victim provides reasonable evidence of the victim's loss, which the child may challenge at the dispositional hearing.

(5) Partially or completely emancipate the child under section 27 of this chapter.

(6) Order the child to attend an alcohol and drug services program established under IC 12-23-14.

(7) Order the child to perform community **restitution or** service for a specified period of time.

(8) Order wardship of the child as provided in section 9 of this chapter.

SECTION 22. IC 31-37-19-17.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 17.3. (a) This section applies if a child is a delinquent child under IC 31-37-1 due to the commission of a delinquent act that, if committed by an adult, would be an offense under IC 9-30-5.**

(b) The juvenile court shall, in addition to any other order or decree the court makes under this chapter, recommend the suspension of the child's driving privileges as provided in IC 9-30-5. If a court recommends suspension of a child's driving privileges under this section, the bureau of motor vehicles shall comply with the recommendation of suspension as provided in IC 9-30-6-12.

(c) If a court recommends suspension of a child's driving privileges under this section, the court may order the bureau of

motor vehicles to reinstate the child's driving privileges as provided in IC 9-30-6-11.

(d) If a juvenile court orders the bureau of motor vehicles to reinstate a child's driving privileges under subsection (c), the bureau shall comply with the order. Unless the order for reinstatement is issued as provided under IC 9-30-6-11(a)(2) because of a violation of the speedy trial provisions applicable to the juvenile court, the bureau shall also do the following:

- (1) Remove any record of the suspension from the bureau's record keeping system.
- (2) Reinstate the privileges without cost to the person.

(e) If:

- (1) a juvenile court recommends suspension of a child's driving privileges under this section; and
- (2) the child did not refuse to submit to a chemical test offered as provided under IC 9-30-6-2 during the investigation of the delinquent act that would be an offense under IC 9-30-5 if committed by an adult;

the juvenile court may stay the execution of the suspension of the child's driving privileges and grant the child probationary driving privileges for one hundred eighty (180) days.

(f) If a juvenile court orders a suspension under this section and the child did not refuse to submit to a chemical test offered under IC 9-30-6-2 during the investigation of the delinquent act that would have been an offense under IC 9-30-5 if committed by an adult, the juvenile court may grant the child probationary driving privileges for one hundred eighty (180) days in conformity with the procedures in IC 9-30-5-12. The standards and procedures in IC 9-30-5-11 and IC 9-30-5-13 apply to an action under this subsection.

(g) A child whose driving privileges are suspended under this section is entitled to credit for any days during which the license was suspended under IC 31-37-5-7, if the child did not refuse to submit to a chemical test offered as provided under IC 9-30-6-2 during the investigation of the delinquent act that would be an offense under IC 9-30-5 if committed by an adult.

(h) A period of suspension of driving privileges imposed under this section must be consecutive to any period of suspension imposed under IC 31-37-5-7. However, if the juvenile court finds

in the sentencing order that it is in the best interest of society, the juvenile court may terminate all or any part of the remaining suspension under IC 31-37-5-7.

(i) The bureau of motor vehicles may adopt rules under IC 4-22-2 to carry out this section.

SECTION 23. IC 31-37-19-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 18. If the court orders invalidation or denial of issuance of a driver's license or permit as described in **IC 31-37-5-7 or section 4, 13, 14, 15, 16, or 17, or 17.3** of this chapter (or IC 31-6-4-15.9(c), IC 31-6-4-15.9(d), IC 31-6-4-15.9(e), or IC 31-6-4-15.9(f) before the repeal of IC 31-6-4-15.9):

- (1) the bureau of motor vehicles shall comply with the order for invalidation or denial of issuance; and
- (2) the child shall surrender to the court all driver's licenses or permits of the child and the court shall immediately forward the licenses or permits to the bureau of motor vehicles.

If a juvenile court recommends suspension of driving privileges under section 17.3 of this chapter, IC 9-30-6-12(b), IC 9-30-6-12(c), and IC 9-30-6-12(d) apply to the child's driving privileges.

SECTION 24. IC 35-38-2.5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 6. An order for home detention of an offender under section 5 of this chapter must include the following:

- (1) A requirement that the offender be confined to the offender's home at all times except when the offender is:
 - (A) working at employment approved by the court or traveling to or from approved employment;
 - (B) unemployed and seeking employment approved for the offender by the court;
 - (C) undergoing medical, psychiatric, mental health treatment, counseling, or other treatment programs approved for the offender by the court;
 - (D) attending an educational institution or a program approved for the offender by the court;
 - (E) attending a regularly scheduled religious service at a place of worship; or
 - (F) participating in a community work release or community

restitution or service program approved for the offender by the court.

(2) Notice to the offender that violation of the order for home detention may subject the offender to prosecution for the crime of escape under IC 35-44-3-5.

(3) A requirement that the offender abide by a schedule prepared by the probation department, or by a community corrections program ordered to provide supervision of the offender's home detention, specifically setting forth the times when the offender may be absent from the offender's home and the locations the offender is allowed to be during the scheduled absences.

(4) A requirement that the offender is not to commit another crime during the period of home detention ordered by the court.

(5) A requirement that the offender obtain approval from the probation department or from a community corrections program ordered to provide supervision of the offender's home detention before the offender changes residence or the schedule described in subdivision (3).

(6) A requirement that the offender maintain:

(A) a working telephone in the offender's home; and

(B) if ordered by the court, a monitoring device in the offender's home or on the offender's person, or both.

(7) A requirement that the offender pay a home detention fee set by the court in addition to the probation user's fee required under IC 35-38-2-1 or IC 31-40. However, the fee set under this subdivision may not exceed the maximum fee specified by the department of correction under IC 11-12-2-12.

(8) A requirement that the offender abide by other conditions of probation set by the court under IC 35-38-2-2.3.

SECTION 25. IC 35-41-1-4.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 4.6. "Community restitution or service" means performance of services directly for a:**

(1) victim;

(2) nonprofit entity; or

(3) governmental entity;

without compensation, including graffiti abatement, park maintenance, and other community service activities. The term

does not include the reimbursement under IC 35-50-5-3 or another law of damages or expenses incurred by a victim or another person as the result of a violation of law.

SECTION 26. IC 36-10-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 4. A unit may establish, aid, maintain, and operate libraries and museums, cultural, historical, and scientific facilities and programs, and community **restitution or service** facilities and programs.

SECTION 27. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2000]: IC 9-14-3.5-9; IC 9-24-18-5.

SECTION 28. [EFFECTIVE JULY 1, 2000] **The change of references in the Indiana Code from community service to community restitution or service by this act shall not be construed to:**

- (1) release a person from a court order issued before July 1, 2000, requiring the person to perform community service; or**
- (2) limit the power of an entity to operate any program as a community restitution program after June 30, 2000, that was operated before July 1, 2000, as a community service program.**

P.L.33-2000

[H.1055. Approved March 15, 2000.]

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

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

SECTION 1. IC 10-2-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 3. (a) This section applies to all officers and employees of the state of Indiana or any county, township, municipality, or school corporation in Indiana who are listed in subsection (b).

(b) As used in this section, "member" refers to the following:

- (1) A member of the Indiana National Guard.
- (2) A member of a reserve component.
- (3) A member of the retired personnel of the naval, air, or ground forces of the United States.

(c) A member is entitled to receive from the member's employer a leave of absence from the member's respective duties, in addition to regular vacation period, without loss of time or pay for such time as the member is:

- (1) on training duties of the state of Indiana under the order of the governor as commander in chief; or
- (2) a member of any reserve component under the order of the reserve component authority;

for consecutive or nonconsecutive periods not to exceed a total of fifteen (15) days in any calendar year. **The entitlement to a leave of absence without loss of time or pay provided in this subsection is not at the discretion of the member's employer.**

(d) A member is entitled to receive from the member's employer a leave of absence from the member's respective duties, in addition to the member's regular vacation period for the total number of days that the member is on state active duty under section 4 of this chapter. ~~This A~~ leave of absence **provided under this subsection** may be with or without loss of time or pay at the discretion of the member's employer.

P.L.34-2000

[H.1058. Approved March 15, 2000.]

AN ACT to amend the Indiana Code concerning education.

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

SECTION 1. IC 20-8.1-3-17.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 17.5. ~~Beginning with the 1995-1996 school year, each~~ **(a)** A school corporation shall record **or include** in the official high school transcript for each student in ~~grades 11 and 12~~ **high school** the following information:

- (1) Attendance records.
- (2) The student's latest ISTEP test results under IC 20-10.1-16.
- (3) Any secondary level and postsecondary level certificates of achievement earned by the student.

(4) Immunization information from the immunization record the student's school keeps under IC 20-8.1-7-9.

(b) A school corporation may include information on a student's high school transcript that is in addition to the requirements of subsection (a).

P.L.35-2000

[H.1062. Approved March 15, 2000.]

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

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

SECTION 1. IC 10-7-13-2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 2. The respective authorities of the several counties, townships, cities, and towns of Indiana may appropriate annually a sum of money to be allocated to an appropriate nonprofit veterans organization for the development, establishment, or maintenance of a veterans memorial located within the county of the respective county, town, city, or township allocating the funds.**

P.L.36-2000

[H.1068. Approved March 15, 2000.]

AN ACT to amend the Indiana Code concerning local government.

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

SECTION 1. IC 6-1.1-18.5-10.4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 10.4. (a) The ad valorem property tax levy limits imposed by section 3 of this chapter do not apply to ad valorem property taxes imposed by a township **or a fire protection district** under IC 36-8-14.

(b) For purposes of computing the ad valorem property tax levy limit imposed on a township **or a fire protection district** under section 3 of this chapter, the township's **or the fire protection district's** ad valorem property tax levy for a particular calendar year does not include that part of the levy imposed under IC 36-8-14.

SECTION 2. IC 36-8-11-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 2. As used in this chapter:

"Board" refers to the board of fire trustees of a fire protection district.

"Fiscal officer" means a bonded employee of the fire protection district charged with the faithful receipt and disbursement of the funds of the district.

"Freeholder" means an individual who holds land in fee, for life, or for some indeterminate period of time, whether or not in joint title.

"Interested person" includes a freeholder or corporation owning lands within the proposed or established fire protection district, a person whose property may be condemned or injured by the district, the proper officer of a municipality, an affected state agency, and all local plan commissions.

"Joint title" means joint tenancy, tenancy in common, or tenancy by the entireties.

"Primary county" refers to the county where the largest portion of a municipality is located if the municipality is located in two (2)

counties.

"Secondary county" refers to the county where the smallest portion of a municipality is located if the municipality is located in two (2) counties.

SECTION 3. IC 36-8-11-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 4. (a) A county legislative body may establish fire protection districts for any of the following purposes:

- (1) Fire protection, including the capability for extinguishing all fires that might be reasonably expected because of the types of improvements, personal property, and real property within the boundaries of the district.
- (2) Fire prevention, including identification and elimination of all potential and actual sources of fire hazard.
- (3) Other purposes or functions related to fire protection and fire prevention.

(b) Any area may be established as a fire protection district, but one (1) part of a district may not be completely separate from another part. A municipality may be included in a district, but only if it consents by ordinance, unless a majority of the freeholders of the municipality have petitioned to be included in the district.

(c) Except as provided in subsection (d), the territory of a district may consist of:

- (1) one (1) or more townships and parts of one (1) or more townships in the same county; or
- (2) all of the townships in the same county.

The boundaries of a district need not coincide with those of other political subdivisions.

(d) The territory of a district may consist of a municipality that is located in more than one (1) county.

SECTION 4. IC 36-8-11-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 5. (a) Freeholders who desire the establishment of a fire protection district must initiate proceedings by filing a petition in the office of the county auditor **of the county where the freeholder's land is located.** The petition may also be filed by a municipality under an ordinance adopted by its legislative body **in each county where the municipality is located.**

(b) The petition must be signed:

(1) by at least twenty percent (20%), with a minimum of five hundred (500), of the freeholders owning land within the proposed district; or

(2) by a majority of those freeholders owning land within the proposed district;

whichever number is less.

(c) This subsection applies to a district that consists of a municipality located in two (2) counties. The petitions filed in each county as set forth in section 5.1 of this chapter shall be considered parts of one (1) petition. The signature requirement of subsection (b) applies to the sum of the signatures on all parts of the petition.

SECTION 5. IC 36-8-11-5.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 5.1. (a) This section applies to a district that consists of a municipality located in two (2) counties.**

(b) This section does not apply to a merged district under section 23 of this chapter.

(c) Freeholders within the proposed district who desire the establishment of a fire protection district must initiate proceedings by filing a petition to establish the district with the county auditor of the county where the freeholder's land is located. Sections 6 and 7 of this chapter apply to a petition filed under this section. The number of freeholders who signed a petition shall be certified by the county auditor of the county that is the subject of the petition. If a petition is filed in both counties, the county auditor of the secondary county shall forward the petition to the primary county.

(d) The county auditor of the primary county shall present the petition to the legislative body of the primary county at its next regularly scheduled meeting or at a special meeting called for that purpose. Before or at the meeting, the legislative body shall determine whether the petition bears the necessary signatures and complies with requirements as to form and content. The legislative body may not dismiss a petition with the requisite signatures because of alleged defects without permitting amendments to correct errors in form or content.

(e) In determining whether the signers of a petition are freeholders, the names as they appear on the tax duplicates are prima facie evidence of the ownership of land.

(f) If the legislative body of the primary county determines that

the petition conforms to the requirements of this chapter, the primary county or the secondary county, or both, may set a date for a public hearing on whether a fire protection district should, as a matter of public policy, be established in the area proposed in the petition. The district is established when both legislative bodies adopt an identical ordinance or resolution establishing the district.

SECTION 6. IC 36-8-11-9.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 9.5. (a) This section applies to a district that contains a municipality located in two (2) counties.**

(b) This section does not apply to a merged district under section 23 of this chapter.

(c) The freeholders owning land within the proposed district may file a petition opposing the establishment of the district with the county auditor of the county where the freeholder's land is located. If a petition is filed in both counties, the county auditor of the secondary county shall forward the petition to the primary county and certify to the primary county the number of freeholders who signed the petition. A petition against the establishment of the fire protection district must be presented to the legislative body of the primary county at or after a hearing on the petition to establish a district and before the adoption of an ordinance or resolution establishing the district.

(d) If the legislative body of the primary county finds that the petition contains the signatures of fifty-one percent (51%) of the freeholders within the proposed district or of the freeholders who own two-thirds (2/3) of the real property within the proposed district, determined by assessed valuation, the legislative body shall dismiss the petition for the establishment of the district.

SECTION 7. IC 36-8-11-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 11.** To add area to a fire protection district already established, the same procedure must be followed as is provided for the establishment of a district. The petition must be addressed to the legislative body of ~~the~~ **each** county in which the district is located.

SECTION 8. IC 36-8-11-22.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 22.1. (a) This section applies to a**

district that consists of a municipality that is located in two (2) counties.

(b) This section does not apply to a merged district under section 23 of this chapter.

(c) Sections 6 and 7 of this chapter apply to the petition.

(d) The board of fire trustees for the district shall be appointed as prescribed by section 12 of this chapter. However, the legislative body of each county within which the district is located shall jointly appoint one (1) trustee from each township or part of a township contained in the district and one (1) trustee from the municipality contained in the district. The legislative body of each county shall jointly appoint a member to fill a vacancy.

(e) Sections 13, 14, and 15 of this chapter relating to the board of fire trustees apply to the board of the district. However, the county legislative bodies serving the district shall jointly decide where the board shall locate (or approve location of) its office.

(f) Sections 16, 17, 18, 19, and 21 of this chapter relating to the taxing district, bonds, annual budget, tax levies, and disbanding of fire departments apply to the district. However, the budget must be approved by the county fiscal body and county board of tax adjustment in each county in the district. In addition, the auditor of each county in the district shall perform the duties described in section 18(c) of this chapter.

SECTION 9. IC 36-8-11-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 24. (a) Proceedings to dissolve a fire protection district may be instituted by the filing of a petition with the county legislative body that formed the district. **If the proceedings are for dissolution of a district to which section 5.1 of this chapter applies, the proceedings may be instituted by the filing of a petition with the primary county or the secondary county, or both.**

(b) The petition must be signed:

(1) by at least twenty percent (20%), with a minimum of five hundred (500), of the freeholders owning land within the district;

or

(2) by a majority of those freeholders owning land within the district;

whichever is less.

(c) **Except as provided in subsection (d)**, the provisions of section 8 of this chapter concerning a petition to establish a district apply to a dissolution petition.

(d) **If the district is established under section 5.1 of this chapter, the provisions of section 5.1 of this chapter apply to a petition to dissolve the district.**

(e) **Except as provided in subsection (f)**, a petition against the dissolution of the fire protection district may be presented to the county legislative body at or after a hearing on the petition to dissolve a district and before the adoption of an ordinance or resolution dissolving the district. If the legislative body finds that it contains the signatures of fifty-one percent (51%) of the freeholders within the district or of the freeholders who own two-thirds ($2/3$) of the real property within the district, determined by assessed valuation, the legislative body shall dismiss the petition for the dissolution of the district.

~~(e)~~ (f) **If a district is established under section 5.1 of this chapter, the provisions of section 9.5 of this chapter apply to a petition to dissolve the district.**

(g) If, after the public hearing, the legislative body determines that dissolution should occur, it shall adopt an ordinance dissolving the district. **If the district is established under section 5.1 of this chapter, both legislative bodies of the counties containing the district must adopt ordinances dissolving the district after determining in a public hearing that the district should be dissolved.**

~~(f)~~ (h) A dissolution takes effect three (3) months after **the later of the adoption of the ordinance under subsection ~~(a)~~ (g) or the payment of the district's debts and liabilities, including its liabilities under IC 34-13-2 and IC 34-13-3.** The property owned by the district after payment of debts and liabilities shall be disposed of in the manner chosen by the county legislative body **or county legislative bodies.** Dissolution of a district does not affect the validity of any contract to which the district is a party.

~~(g)~~ (i) A person aggrieved by a decision made by the county legislative body **or county legislative bodies** under this section may, within thirty (30) days, appeal the decision to the circuit court for **the any** county in which the district is located. The appeal is instituted by giving written notice to **the each** county legislative body **within which**

the district is located and filing with the circuit court clerk a bond in the sum of five hundred dollars (\$500), with surety approved by the legislative body **or legislative bodies**. The bond must provide that the appeal will be duly prosecuted and that the appellants will pay all costs if the appeal is decided against them. When an appeal is instituted, the county legislative body **or county legislative bodies** shall file with the circuit court clerk a transcript of all proceedings in the case, together with all papers filed in the case. The county legislative body **or county legislative bodies** may not take further action in the case until the appeal is heard and determined. An appeal under this subsection shall be heard by the circuit court without a jury. Change of venue from the judge may be granted, but change of venue from the county may not be granted.

SECTION 10. IC 36-8-19-8.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8.5. (a) Participating units may agree to establish an equipment replacement fund under this section to be used to purchase fire protection equipment, **including housing**, that will be used to serve the entire territory. To establish the fund, the legislative bodies of all participating units must adopt identical ordinances after January 1 but before April 1 authorizing the provider unit to establish the fund. The ordinance must include at least the following:

- (1) The name of each participating unit and the provider unit.
- (2) An agreement to impose a uniform tax rate upon all of the taxable property within the territory for the equipment replacement fund.
- (3) The contents of the agreement to establish the fund.

An ordinance adopted under this section takes effect July 1 of the year the ordinance is adopted.

(b) If a fund is established, the participating units may agree to:

- (1) impose a property tax to provide for the accumulation of money in the fund to purchase fire protection equipment;
 - (2) incur debt to purchase fire protection equipment and impose a property tax to retire the loan; or
 - (3) transfer an amount from the fire protection territory fund to the fire equipment replacement fund not to exceed five percent (5%) of the levy for the fire protection territory fund for that year;
- or any combination of these options. The property tax rate for the levy

imposed under this section may not exceed ten cents (\$0.10). Before debt may be incurred, the fiscal bodies of all participating units must adopt identical ordinances specifying the amount and purpose of the debt. In addition, the state board of tax commissioners must approve the incurrence of the debt using the same standards as applied to the incurrence of debt by civil taxing units.

(c) Money in the fund may be used by the provider unit only for those purposes set forth in the agreement among the participating units that permits the establishment of the fund.

SECTION 11. IC 36-8-11-1 IS REPEALED [EFFECTIVE JULY 1, 2000].

SECTION 12. [EFFECTIVE JULY 1, 2000] **IC 6-1.1-18.5-10.4, as amended by this act, applies to property taxes first due and payable after December 31, 2000.**

SECTION 13. **An emergency is declared for this act.**

P.L.37-2000

[H.1074. Approved March 15, 2000.]

AN ACT to amend the Indiana Code concerning school safety.

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

SECTION 1. IC 5-14-1.5-6.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: 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 with industrial or commercial prospects or agents of industrial or commercial prospects by the department of commerce, the Indiana development finance authority, the film commission, the Indiana business modernization and technology corporation, or economic development commissions.

~~(4)~~ **(5)** To receive information about and interview prospective employees.

~~(5)~~ **(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 a physician.

~~(6)~~ **(7)** For discussion of records classified as confidential by state or federal statute.

~~(7)~~ **(8)** To discuss before a placement decision an individual student's abilities, past performance, behavior, and needs.

~~(8)~~ **(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.

~~(9)~~ **(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.

~~(+0)~~ **(11)** To train school board members with an outside consultant about the performance of the role of the members as public officials.

~~(+1)~~ **(12)** To prepare or score examinations used in issuing licenses, certificates, permits, or registrations under IC 15-5-1.1 or IC 25.

(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 P.L.190-1999, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: 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 an institution of higher education, 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 twenty-first century research and technology fund board under IC 4-4-5.1.

(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 his scores.

(5) The following:

(A) Records relating to negotiations between the department of commerce, the Indiana development finance authority, the film commission, the Indiana business modernization and technology corporation, or economic development commissions 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 department of commerce, the Indiana development finance authority, the film commission, the Indiana business modernization and technology corporation, or economic development commissions 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 department of commerce 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) information concerning disciplinary actions in which final action has been taken and that resulted in the employee being disciplined or discharged.

However, all personnel file information shall be made available to the affected employee or his 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 recordkeeping 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 his 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 advisory committee. 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 that concern the driver.

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

(c) Notwithstanding section 3 of this chapter, a public agency is not required to create or provide copies of lists of names and addresses, unless the public agency is required to publish such lists and disseminate them to the public pursuant to statute. However, if a public agency has created a list of names and addresses, it must permit a person to inspect and make memoranda abstracts from the lists unless access to the lists is prohibited by law. The following lists of names and addresses may not be disclosed by public agencies to commercial entities for commercial purposes and may not be used by commercial entities for commercial purposes:

- (1) A list of employees of a public agency.
- (2) A list of persons attending conferences or meetings at a state institution of higher education or of persons involved in programs or activities conducted or supervised by the state institution of higher education.
- (3) A list of students who are enrolled in a public school corporation if the governing body of the public school corporation adopts a policy:
 - (A) prohibiting the disclosure of the list to commercial entities for commercial purposes; or
 - (B) specifying the classes or categories of commercial entities

to which the list may not be disclosed or by which the list may not be used for commercial purposes.

A policy adopted under subdivision (3) must be uniform and may not discriminate among similarly situated commercial entities.

(d) 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.

(e) 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.

(f) Notwithstanding subsection (e) 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 20-6.1-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 7. (a) On the written recommendation of the **state** superintendent, ~~of public instruction~~, the board may revoke a license for:

- (1) immorality;
- (2) misconduct in office;
- (3) incompetency; or
- (4) willful neglect of duty.

However, for each revocation the board shall comply with IC 4-21.5-3.

(b) The superintendent of a school corporation or equivalent authority for an accredited nonpublic school shall immediately notify the state superintendent when the person knows that a current or former licensed employee of the school corporation or accredited nonpublic school has been convicted of an offense listed in subsection (c).

(c) The board, after holding a hearing on the matter, shall permanently revoke the license of a person who is known by the board to have been convicted of any of the following offenses:

- (1) Rape (IC 35-42-4-1), if the victim is less than eighteen (18) years of age.
- (2) Criminal deviate conduct (IC 35-42-4-2), if the victim is less than eighteen (18) years of age.

- (3) Child molesting (IC 35-42-4-3).
- (4) Child exploitation (IC 35-42-4-4(b)).
- (5) Vicarious sexual gratification (IC 35-42-4-5).
- (6) Child solicitation (IC 35-42-4-6).
- (7) Child seduction (IC 35-42-4-7).
- (8) Sexual misconduct with a minor (IC 35-42-4-9).
- (9) Incest (IC 35-46-1-3), if the victim is less than eighteen (18) years of age.

~~(c)~~ (d) A license may be suspended by the **state** superintendent of ~~public instruction~~ as specified in IC 20-6.1-4-13.

SECTION 4. IC 33-2.1-4-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 7. (a) The judicial nominating commission shall submit to the governor, from among all those names the commission considers for a vacancy, the names of only the three (3) most highly qualified candidates. In determining which candidates are most highly qualified each commission member shall evaluate each candidate, in writing, on the following considerations:

- (1) Legal education, including law schools attended and postlaw school education, and any academic honors and awards achieved.
- (2) Legal writings, including but not limited to legislative draftings, legal briefs, and contributions to legal journals and publications.
- (3) Reputation in the practice of law, as evaluated by attorneys and judges with whom the candidate has had professional contact, and the type of legal practice, including experience and reputation as a trial lawyer or trial judge.
- (4) Physical condition, including general health, stamina, vigor, and age.
- (5) Financial interests, including any such interest which might conflict with the performance of judicial responsibilities.
- (6) Activities in public service, including writings and speeches concerning public affairs and contemporary problems, and efforts and achievements in improving the administration of justice.
- (7) Any other pertinent information which the commission feels is important in selecting the most highly qualified individuals for judicial office.

(b) The commission shall not make an investigation to determine these considerations until the individual states in writing that the

individual desires to hold a judicial office that has been or will be created by a vacancy and that the individual consents to the public disclosure of information under subsections (d) and (g).

(c) The commission shall inquire into the personal and legal backgrounds of each candidate by investigations made independent from the statements on an application of the candidate or in an interview with the candidate. In completing these investigations the commission, in its discretion, may use information provided by or the assistance of:

- (1) a law enforcement agency;
- (2) any organization of lawyers, judges, or individual practitioners; or
- (3) any other person or association.

(d) The commission shall publicly disclose the names of all candidates who have filed for judicial appointment after the commission has received the consent required by subsection (b) but before the commission has begun to evaluate any of the candidates. If the commission's screening of the candidates for judicial appointment occurs in an executive session conducted under ~~IC 5-14-1.5-6.1(b)(9)~~; **IC 5-14-1.5-6.1(b)(10)**, the screening may not reduce the number of candidates for further consideration to fewer than ten (10) individuals unless there are fewer than ten (10) individuals from which to choose before the screening. When the commission's screening has reduced the number of candidates for further consideration to not less than ten (10) or it has less than ten (10) eligible candidates otherwise from which to choose, the commission shall:

- (1) publicly disclose the names of those individuals and their applications before taking any further action; and
- (2) give notice of any further action in the same manner that notice is given under IC 5-14-1.5.

(e) Information described in subsection (d)(1) is identifying information for the purposes of ~~IC 5-14-1.5-6.1(b)(9)~~; **IC 5-14-1.5-6.1(b)(10)**.

(f) The commission shall submit with the list of three (3) nominees to the governor their written evaluation of each such nominee, based on those considerations stated in subsection (a). The list of names submitted to the governor and the written evaluation of each nominee shall be publicly disclosed by the commission.

(g) Notwithstanding IC 5-14-3-4, all public records (as defined in IC 5-14-3-2) of the judicial nominating commission are subject to IC 5-14-3-3, including records described in IC 5-14-3-4(b)(12). However, the following records are excepted from public inspection and copying at the discretion of the judicial nominating commission:

(1) Personnel files of commission employees and files of applicants for employment with the commission to the extent permitted under IC 5-14-3-4(b)(8).

(2) Records specifically prepared for discussion or developed during discussion in an executive session under IC 5-14-1.5-6.1, unless the records are prepared for use in the consideration of a candidate for judicial appointment.

(3) Investigatory records prepared for the commission under subsection (c) until:

(A) the records are filed or introduced into evidence in connection with the consideration of a candidate;

(B) the records are publicly discussed by the commission in connection with the consideration of a candidate;

(C) a candidate elects to have the records released by the commission; or

(D) the commission elects to release the records that the commission considers appropriate in response to publicly disseminated statements relating to the activities or actions of the commission;

whichever occurs first.

(4) Applications of candidates for judicial appointment who are not among the applicants eligible for further consideration following the commission's screening under subsection (d).

(5) The work product of an attorney (as defined by IC 5-14-3-2) representing the commission.

(h) When an event described by subsection (g)(3) occurs, the investigatory record becomes available for public inspection and copying under IC 5-14-3-3.

(i) As used in this subsection, "attributable communication" refers to a communication containing the sender's name, address, and telephone number. The commission shall provide a copy of all attributable communications regarding a candidate for judicial appointment to each member of the commission. An attributable

communication becomes available for public inspection and copying under IC 5-14-3-3 after a copy has been provided to each member of the commission. The commission may not consider a communication other than an attributable communication in evaluating any candidate for judicial appointment.

(j) The commission shall release the investigatory records prepared for the commission under subsection (c) to the candidate for judicial appointment described by the records.

P.L.38-2000

[H.1075. Approved March 15, 2000.]

AN ACT to amend the Indiana Code concerning natural and cultural resources.

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

SECTION 1. IC 14-8-2-129 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 129. "Idle speed", **for purposes of IC 14-15-3-17**, means the slowest possible speed, not exceeding five (5) miles per hour, that maintains steerage so that the wake or wash created by the watercraft is minimal.

SECTION 2. IC 14-15-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 6. (a) This section does not apply to the following:

- (1) A sailboard or windsurfing board.
- (2) A manually propelled boat, such as a racing shell, rowing scull, or racing kayak:
 - (A) that is recognized by national or international racing associations for use in competitive racing;
 - (B) in which all occupants row, scull, or paddle, with the exception of a coxswain if a coxswain is provided; and
 - (C) that is designed to carry and carries equipment only for competitive racing.

(b) All boats must be equipped with ~~at least one (1) life preserver;~~

ring buoy, life jacket, buoyant vest, or buoyant cushion, of a make or type approved by the United States Coast Guard; for each individual on board: **the number and type of personal flotation devices listed in this subsection. A person may not operate a boat unless the boat contains:**

(1) for each person on board, one (1) personal flotation device that meets the requirements for designation by the United States Coast Guard as a Type I, Type II, or Type III personal flotation device; and

(2) for a boat at least sixteen (16) feet in length and in addition to the requirements of subdivision (1), one (1) personal flotation device that meets the requirements for designation by the United States Coast Guard as a Type IV personal flotation device.

(c) The director may waive the requirements of this section for a boat during competition in a boat race for which a permit has been issued by the department if the following conditions are met:

(1) The sponsor of the boat race has informed the director of the precautions the sponsor will take to minimize the safety hazards that exist due to noncompliance with the requirements of this section.

(2) The sponsor files with the director a document under which the sponsor assumes all liability that may result from the use of a boat under the waiver.

SECTION 3. IC 14-15-3-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 17. (a) A person operating a motorboat may not approach or pass within two hundred (200) feet of the shore line of a lake or channel of the lake at a place or point where the lake or channel is at least five hundred (500) feet in width, except for the purpose of trolling or for the purpose of approaching or leaving a dock, pier, or wharf or the shore of the lake or channel.

(b) Except as provided in subsection (c), a person operating a motorboat may not approach or pass within two hundred (200) feet of the shore line of a lake or channel of the lake at a speed greater than ~~ten~~ **(10) miles per hour: idle speed.**

(c) This subsection applies to lakes formed by hydroelectric dams in a county having a population of:

- (1) more than twenty-three thousand (23,000) but less than twenty-three thousand five hundred (23,500); or
- (2) more than eighteen thousand five hundred (18,500) but less than eighteen thousand eight hundred twenty (18,820).

A person operating a motorboat may not approach or pass within fifty (50) feet of the shore line at a speed greater than ~~ten (10) miles per hour~~. **idle speed**. However, on tributaries of lakes described in this subsection that are formed by hydroelectric dams, a person operating a motor boat may not approach or pass within two hundred (200) feet of the shore line of the tributary at a speed greater than ~~ten (10) miles per hour~~. **idle speed**. For the purposes of this chapter, tributaries on lakes formed by hydroelectric dams do not include the principal body of water flowing into the lakes.

SECTION 4. IC 14-15-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 3. (a) The department may adopt rules under IC 4-22-2 to implement this article concerning the following:

- (1) Applications for and the issuance of permits and certificates required by this article.
- (2) The conduct of watercraft races.
- (3) Standards of safety for boats used to carry passengers for hire, the determination of the maximum weight that may safely be carried on boats, and the inspection of boats.
- (4) The safe operation of watercraft upon public water where unusual conditions or hazards exist, such as any of the following:
 - (A) An obstruction in or along public water.
 - (B) Watercraft traffic congestion.
 - (C) A beach, boat launch, marina, dam, spillway, or other recreational facility on or adjacent to public water.
- (5) The placement, location, and maintenance of the following structures upon public water:
 - (A) Buoys.
 - (B) Markers.
 - (C) Flags.
 - (D) Devices that are used for the purposes of swimming or extending the use of water skis, water sleds, or aquaplanes.
- (6) The establishment of zones where the use of watercraft may be limited or prohibited for the following purposes:**

(A) Fish, wildlife, or botanical resource management.

(B) The protection of users.

(7) The regulation of watercraft engaged in group or organized activities or tournaments.

(b) In a rule adopted under subsection (a)(4) or **(a)(6)**, the department may establish a zone where:

- (1) the operation of all or some types of watercraft is prohibited;
- (2) particular activities are restricted or prohibited; or
- (3) a limitation is placed on the speed at which a watercraft may be operated.

SECTION 5. IC 14-15-12-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 8. A person shall not operate a personal watercraft on public waters unless every individual:

- (1) operating;
- (2) riding on; or
- (3) being towed by;

the personal watercraft is wearing a personal flotation device that ~~is approved by the United States Coast Guard under 46 CFR 160 and that meets the requirements of 310 IAC 2.1~~, **meets the requirements for designation by the United States Coast Guard as a Type I or Type II personal flotation device**, if applicable.

P.L.39-2000

[H.1097. Approved March 15, 2000.]

AN ACT to amend the Indiana Code concerning motor vehicles.

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

SECTION 1. IC 9-14-3.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 4. As used in this chapter, "motor vehicle record" means a record that pertains to: ~~an~~ **operator's**

- (1) a driver's license;**
- (2) a permit;**

- (3) a motor vehicle registration;
- (4) a motor vehicle title; or
- (5) an identification document issued by the bureau.

SECTION 2. IC 9-14-3.5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 5. As used in this chapter, "personal information" means information that identifies a person, including an individual's:

- (1) photograph or computerized image;
- (2) Social Security number;
- (3) driver's license **or** identification **document** number;
- (4) name;
- (5) address (but not the 5-digit zip code);
- (6) telephone number; or
- (7) medical or disability information.

The term does not include information about vehicular accidents, driving or equipment related violations, and operator's license or registration status.

SECTION 3. IC 9-14-3.5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 7. (a) Except as provided in sections 8, ~~through 10~~, **and 11** of this chapter:

- (1) **an officer or employee of the bureau;**
- (2) **an officer or employee of the bureau of motor vehicles commission;** or
- (3) ~~an officer, an employee, or a contractor of the bureau~~ **or the bureau of motor vehicles commission (or an officer or employee of the contractor);**

may not knowingly disclose personal information about a person obtained by the bureau in connection with a motor vehicle record.

(b) A person's Social Security number shall not be in any way disclosed on a motor vehicle registration.

SECTION 4. IC 9-14-3.5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 10. The bureau may disclose personal information to a person if the person requesting the information provides proof of identity and represents that the use of the personal information will be strictly limited to at least one (1) of the following:

- (1) For use by a government agency, including a court or law enforcement agency, in carrying out its functions, or a person

acting on behalf of a government agency in carrying out its functions.

- (2) For use in connection with matters concerning:
 - (A) motor vehicle or driver safety and theft;
 - (B) motor vehicle emissions;
 - (C) motor vehicle product alterations, recalls, or advisories;
 - (D) performance monitoring of motor vehicles, motor vehicle parts, and dealers;
 - (E) motor vehicle market research activities, including survey research; and
 - (F) the removal of nonowner records from the original owner records of motor vehicle manufacturers.
- (3) For use in the normal course of business by a business or its agents, employees, or contractors, but only:
 - (A) to verify the accuracy of personal information submitted by an individual to the business or its agents, employees, or contractors; and
 - (B) if information submitted to a business is not correct or is no longer correct, to obtain the correct information only for purposes of preventing fraud by, pursuing legal remedies against, or recovering on a debt or security interest against, the individual.
- (4) For use in connection with a civil, a criminal, an administrative, or an arbitration proceeding in a court or government agency or before a self-regulatory body, including the service of process, investigation in anticipation of litigation, and the execution or enforcement of judgments and orders, or under an order of a court.
- (5) For use in research activities, and for use in producing statistical reports, as long as the personal information is not published, re-disclosed, or used to contact the individuals who are the subject of the personal information.
- (6) For use by an insurer, an insurance support organization, or a self-insured entity, or the agents, employees, or contractors of an insurer, an insurance support organization, or a self-insured entity in connection with claims investigation activities, anti-fraud activities, rating, or underwriting.
- (7) For use in providing notice to the owners of towed or

impounded vehicles.

(8) For use by a licensed private investigative agency or licensed security service for a purpose allowed under this section.

(9) For use by an employer or its agent or insurer to obtain or verify information relating to a holder of a commercial driver's license that is required under the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. 2710 et seq.).

(10) For use in connection with the operation of private toll transportation facilities.

(11) For ~~distribution of automotive-related surveys, marketing, or solicitations~~ after the bureau has implemented methods and procedures to ensure that:

(A) a person who is the subject of personal information requested is provided an opportunity, in a clear and conspicuous manner, to prohibit the uses;

(B) the information will be used, rented, or sold only for bulk distribution for automotive-related surveys, marketing, and solicitations; and

(C) ~~the automotive-related surveys, marketing, and solicitations will not be directed at those individuals who have requested in a timely fashion that such material not be directed at them:~~ **any use in response to requests for individual motor vehicle records when the bureau has obtained the written consent of the person to whom the personal information pertains.**

(12) **For bulk distribution for surveys, marketing, or solicitations when the bureau has obtained the written consent of the person to whom the personal information pertains.**

(13) **For use by any person, when the person demonstrates, in a form and manner prescribed by the bureau, that written consent has been obtained from the individual who is the subject of the information.**

(14) For any other use specifically authorized by law that is related to the operation of a motor vehicle or public safety.

However, this section does not affect the use of anatomical gift information on a person's driver's license or identification document issued by the bureau, nor does it affect the administration of anatomical gift initiatives in the state.

SECTION 5. IC 9-14-3.5-11, AS AMENDED BY P.L.222-1999, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 11. (a) ~~Personal information that is contained in an individual record may be disclosed to a person, without regard to intended use, if the bureau has provided in a clear and conspicuous manner on forms for issuance or renewal of operator's licenses, registrations, titles, or identification documents:~~

~~(1) notice that personal information collected by the bureau may be disclosed to any person making a request for an individual record; and~~

~~(2) an opportunity for each person who is the subject of a record to prohibit the disclosure.~~

~~(b) The bureau shall disclose the name and address of a purchaser of a special group recognition license plate issued under IC 9-18-25-2(3) supporting a state educational institution (as defined in IC 20-12-0.5-1) to a representative designated and authorized to receive the personal information by the state educational institution, if the purchaser purchased the plate **bureau obtained the written consent of the purchaser regarding the disclosure and the plate was purchased** in a year:~~

~~(1) beginning after December 31, 1998; and~~

~~(2) in which at least ten thousand (10,000) of the special group's recognition license plates issued under IC 9-18-25-2(3) are sold or renewed.~~

SECTION 6. IC 9-14-3.5-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 13. (a) An authorized recipient of personal information, except a recipient under section 10(11), **10(12)**, or 11 of this chapter, may resell or re-disclose the information for any use allowed under section 10 of this chapter, except for a use under section 10(11) **or 10(12)** of this chapter.

(b) An authorized recipient of a record under section ~~10(11)~~ **10(11)** of this chapter may resell or re-disclose personal information for any purpose.

(c) An authorized recipient of personal information under IC 9-14-3-6 and section ~~10(11)~~ **10(12)** of this chapter may resell or re-disclose the personal information for use only in accordance with section ~~10(11)~~ **10(12)** of this chapter.

(d) Except for a recipient under section ~~10(11)~~ **10(11)** of this chapter, a

recipient who resells or re-discloses personal information is required to maintain and make available for inspection to the bureau, upon request, for at least five (5) years, records concerning:

- (1) each person that receives the information; and
- (2) the permitted use for which the information was obtained.

SECTION 7. IC 9-21-8-35, AS AMENDED BY P.L.18-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 35. (a) Upon the immediate approach of an authorized emergency vehicle, when the person who drives the authorized emergency vehicle is giving audible signal by siren or displaying alternately flashing red, red and white, or red and blue lights, a person who drives another vehicle shall do the following unless otherwise directed by a law enforcement officer:

- (1) Yield the right-of-way.
- (2) Immediately drive to a position parallel to and as close as possible to the right-hand edge or curb of the highway clear of any intersection.
- (3) Stop and remain in the position until the authorized emergency vehicle has passed.

(b) Upon approaching a stationary authorized emergency vehicle, when the authorized emergency vehicle is giving a signal by displaying alternately flashing red, red and white, or red and blue lights, a person who drives an approaching vehicle shall:

- (1) proceeding with due caution, yield the right-of-way by making a lane change into a lane not adjacent to that of the authorized emergency vehicle, if possible with due regard to safety and traffic conditions, if on a highway having at least four (4) lanes with not less than two (2) lanes proceeding in the same direction as the approaching vehicle; or
- (2) proceeding with due caution, reduce the speed of the vehicle, maintaining a safe speed for road conditions, if changing lanes would be impossible or unsafe.

(c) Upon approaching a stationary recovery vehicle or a stationary highway maintenance vehicle, when the vehicle is giving a signal by displaying alternately flashing amber lights, a person who drives an approaching vehicle shall:

- (1) proceeding with due caution, yield the right-of-way by making a lane change into a lane not adjacent to that of the**

authorized emergency vehicle, if possible with due regard to safety and traffic conditions, if on a highway having at least four (4) lanes with not less than two (2) lanes proceeding in the same direction as the approaching vehicle; or
(2) proceeding with due caution, reduce the speed of the vehicle, maintaining a safe speed for road conditions, if changing lanes would be impossible or unsafe.

~~(c)~~ **(d)** This section does not operate to relieve the person who drives an authorized emergency vehicle, **a recovery vehicle, or a highway maintenance vehicle** from the duty to operate the vehicle with due regard for the safety of all persons using the highway.

SECTION 8. IC 9-21-8-54, AS ADDED BY P.L.18-1999, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 54. (a) A person who violates section 35(b) **or section 35(c)** of this chapter commits a Class A infraction.

(b) If a violation of section 35(b) of this chapter results in damage to the property of another person, in addition to any other penalty imposed, the court shall recommend that the person's driving privileges be suspended for a fixed period of not less than ninety (90) days and not more than one (1) year.

(c) If a violation of section 35(c) of this chapter results in damage to the property of another person of at least two hundred fifty dollars (\$250), in addition to any other penalty imposed, the court shall recommend that the person's driving privileges be suspended for a fixed period of not less than ninety (90) days and not more than one (1) year.

(d) If a violation of section 35(b) **or section 35(c)** of this chapter results in injury to another person, in addition to any other penalty imposed, the court shall recommend that the person's driving privileges be suspended for a fixed period of not less than one hundred eighty (180) days and not more than two (2) years.

~~(d)~~ **(e)** If a violation of section 35(b) **or section 35(c)** of this chapter results in the death of another person, in addition to any other penalty imposed, the court shall recommend that the person's driving privileges be suspended for two (2) years.

~~(e)~~ **(f)** The bureau shall, upon receiving a record of a judgment entered against a person under this section:

(1) suspend the person's driving privileges for a mandatory

period; or

(2) extend the period of an existing suspension for a fixed period; of not less than ninety (90) days and not more than two (2) years. The bureau shall fix this period in accordance with the recommendation of the court that entered the judgment.

SECTION 9. IC 9-23-2-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 10. (a) A person licensed under this article shall furnish evidence that the person currently has **liability insurance or** garage liability insurance covering the person's place of business. The policy must have limits of not less than the following:

(1) One hundred thousand dollars (\$100,000) for bodily injury to one (1) person.

(2) Three hundred thousand dollars (\$300,000) for bodily injury for each accident.

(3) Fifty thousand dollars (\$50,000) for property damage.

(b) The minimum amounts required by subsection (a) must be maintained during the time the license is valid.

SECTION 10. IC 9-24-9-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 2. Each application for a license or permit under this chapter must require the following information:

(1) The name, age, sex, and **mailing address and, if different from the mailing address, the residence** address of the applicant. **The applicant shall indicate to the bureau which address the license or permit shall contain.**

(2) Whether the applicant has been licensed as an operator, a chauffeur, or a public passenger chauffeur or has been the holder of a learner's permit, and if so, when and by what state.

(3) Whether the applicant's license or permit has ever been suspended or revoked, and if so, the date of and the reason for the suspension or revocation.

(4) Whether the applicant has been convicted of a crime punishable as a felony under Indiana motor vehicle law or any other felony in the commission of which a motor vehicle was used.

(5) Whether the applicant has a physical or mental disability, and if so, the nature of the disability and other information the bureau

directs.

The bureau shall maintain records of the information provided under subdivisions (1) through (5).

SECTION 11. IC 9-24-11-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 5. (a) A permit or license issued under this chapter must bear the distinguishing number assigned to the permittee or licensee and must contain:

- (1) the name;
- (2) the age;
- (3) the **mailing address or residence** address;
- (4) a brief description; and
- (5) except as provided in subsection (c), a photograph of the permittee or licensee for the purpose of identification;

and additional information that the bureau considers necessary, including a space for the signature of the permittee or licensee.

(b) In carrying out this section, the bureau shall obtain the equipment necessary to provide the photographs for permits and licenses as provided in subsection (a).

(c) The following permits or licenses do not require a photograph:

- (1) Learner's permit issued under IC 9-24-7.
- (2) Temporary motorcycle learner's permit issued under IC 9-24-8.
- (3) Motorcycle learner's permit issued under IC 9-24-8.
- (4) Operator's license reissued under IC 9-24-12-6.

(d) The bureau may provide for the omission of a photograph from any other license or permit if there is good cause for the omission.

SECTION 12. IC 9-24-13-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 4. If:

- (1) an individual holding a license or permit issued under this article ~~moves from~~ **changes** the address ~~where the licensee or permittee resided at the time shown on~~ the license or permit **application; was granted to the licensee or permittee;** or
- (2) the name of a licensee or permittee is changed by marriage or otherwise;

the licensee or permittee shall immediately notify the bureau in writing of the licensee's or permittee's old and new address or of the former name and new name and the number of the license or permit held by the licensee or permittee.

SECTION 13. IC 9-24-14-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 3. If a licensee or permittee who changes **mailing address or residence** address or name, by marriage or otherwise, desires to have a replacement license or permit indicating the new address or name of the licensee or permittee, the licensee or permittee may request the issuance of the replacement license or permit upon proper application and the payment of the required fee as authorized by this article.

SECTION 14. IC 9-24-16-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 2. An application for an identification card issued under this chapter must meet the following conditions:

- (1) Made upon an approved form provided by the bureau, **which shall include the mailing address, and if different from the mailing address, the residence address of the applicant.**
- (2) Verified by the applicant before a person authorized to administer oaths and affirmations.

SECTION 15. IC 9-24-16-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 3. (a) An identification card must have the same dimensions and shape as a driver's license, but the card must have markings sufficient to distinguish the card from a driver's license.

(b) The front side of an identification card must contain the following information about the individual to whom the card is being issued:

- (1) Full legal name.
- (2) **Mailing address and, if different from the mailing address, the residence** address.
- (3) Birth date.
- (4) Date of issue and date of expiration.
- (5) Distinctive identification number or Social Security account number, whichever is requested by the individual.
- (6) Sex.
- (7) Weight.
- (8) Height.
- (9) Color of eyes and hair.
- (10) Signature of the individual identified.
- (11) Whether the individual is blind (as defined in

IC 12-7-2-21(1)).

P.L.40-2000

[H.1106. Approved March 15, 2000.]

AN ACT to amend the Indiana Code concerning motor vehicles.

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

SECTION 1. IC 8-15-3-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 27. **(a) As used in this section, "compression release engine brake" means a hydraulically operated device that converts a power producing diesel engine into a power absorbing retarding mechanism.**

(b) Notwithstanding IC 9, the department may adopt rules under IC 4-22-2 for the following:

(1) Establishing weight and size limitations for vehicles using a tollway, subject to the following:

(A) The operator of any vehicle exceeding any of the maximum allowable dimensions or weights must apply to the department in writing for an application for a special hauling permit. The application must be received at least seven (7) days before the time of desired entry. A permit, if granted, shall be given to the applicant in duplicate, properly completed, and numbered. The driver of the vehicle must have a copy to present to the toll attendant on duty at the point of entry to the tollway.

(B) The department shall assess a fee for issuing a special hauling permit. In assessing the fee, the department shall take into consideration the following factors:

(i) The administrative cost of issuing the permit.

(ii) The potential damage the vehicle represents to the project.

(iii) The potential safety hazard the vehicle represents.

(2) Establishing the speed at which a vehicle may be driven on a

tollway, including a minimum speed and a maximum speed not in excess of the maximum provided in IC 9 for the interstate defense network of dual highways.

- (3) Designating one-way traffic lanes on a tollway.
- (4) Determining the manner of operation of vehicles entering and leaving traffic lanes on a tollway.
- (5) Determining the regulation of U-turns, of crossing or entering medians, of stopping, parking, or standing, and of passing vehicles on a tollway.
- (6) Determining the establishment and enforcement of traffic control signs and signals for vehicles in traffic lanes, acceleration and deceleration lanes, toll plazas, and interchanges on a tollway.
- (7) Determining the limitation of entry to and exit from a tollway to designated entrances and exits.
- (8) Determining the limitation on use of a tollway by pedestrians and aircraft and by vehicles of a type specified in the rules.
- (9) Regulating commercial activity on tollways, including the following:
 - (A) The offering or display of goods or services for sale.
 - (B) The posting, distributing, or displaying of signs, advertisements, or other printed or written material.
 - (C) The operation of a mobile or stationary public address system.

(c) Notwithstanding IC 9, the department shall adopt rules under IC 4-22-2 to control the use of compression release engine brakes when a motor vehicle is using the Indiana toll road in a county having a population of more than one hundred twenty-five thousand (125,000) but less than one hundred twenty-nine thousand (129,000). These rules must include the limitation of the use of the compression release engine brakes instead of the service brake system, except in the case of failure of the service brake system.

SECTION 2. [EFFECTIVE UPON PASSAGE] **(a) Notwithstanding IC 8-15-3-27, as amended by this act, the department of transportation shall carry out the duties imposed upon it by IC 8-15-3-27, as amended by this act, under interim written guidelines approved by the commissioner.**

(b) This SECTION expires on the earlier of the following:

(1) The date rules are adopted under IC 8-15-3-27, as amended by this act.

(2) December 31, 2000.

SECTION 3. An emergency is declared for this act.

P.L.41-2000

[H.1125. Approved March 15, 2000.]

AN ACT to amend the Indiana Code concerning trusts and fiduciaries.

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

SECTION 1. IC 30-4-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1. (a) A trust is a fiduciary relationship between a person who, as trustee, holds title to property and another person for whom, as beneficiary, the title is held.

(b) Subject to IC 30-4-2-8, the same person may be both the trustee and a beneficiary.

(c) The rules of law contained in this article do not apply to:

- (1) trusts created by operation of law;
- (2) business trusts (as defined in IC 23-5-1);
- (3) security instruments and creditor arrangements;
- (4) voting trusts;
- (5) religious, educational, and cultural institutions, **created in other than trust form**, except with respect to ~~IC 30-4-5~~, **the application of IC 30-4-5-18 through IC 30-4-5-23 as it relates those sections relate** to the maintenance of federal income tax exemption privileges **to which an institution is entitled;**
- (6) ~~nonprofit charitable foundations~~, corporations and other ~~associations~~ **entities governed by IC 23-17**, except with respect to ~~IC 30-4-5~~ **IC 30-4-5-18 through IC 30-4-5-23 as it relates those sections relate** to the maintenance of federal income tax exemption privileges **to which a corporation or other entity is entitled;**

- (7) prepaid funeral plans;
- (8) trusts for the care and upkeep of cemeteries;
- (9) agreements to furnish funeral services; and
- (10) trusts created or authorized by statute other than this article.

(d) IC 30-4-3-2(a) applies to an employee benefit trust that meets the requirements set forth in IC 30-4-3-2(c). However, no other provision of this article applies to an employee benefit trust.

SECTION 2. IC 30-4-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 2. As used in this article:

- (1) "Adult" means any person eighteen (18) years of age or older.
- (2) "Affiliate" means a parent, descendant, spouse, spouse of a descendant, brother, sister, spouse of a brother or sister, employee, director, officer, partner, joint venturer, a corporation subject to common control with the trustee, a shareholder, or corporation who controls the trustee or a corporation controlled by the trustee other than as a fiduciary.
- (3) "Beneficiary" means any cestui que trust or person named or a member of the class designated in the terms of the trust to be any person or class of persons for whose benefit the title to the trust property is held and for whom the trust is to be administered.
- (4) "Breach of trust" means a violation by the trustee of any duty which is owed to the settlor or beneficiary.
- (5) **"Charitable trust" means a trust in which all the beneficiaries are the general public or organizations, including trusts, corporations, and associations, and that is organized and operated wholly for religious, charitable, scientific, public safety testing, literary, or educational purposes. The term does not include charitable remainder trusts, charitable lead trusts, pooled income funds, or any other form of split-interest charitable trust that has at least one (1) noncharitable beneficiary.**
- (6) "Court" means a court having jurisdiction over trust matters.
- ~~(7)~~ (7) "Income beneficiary" means a beneficiary to whom income is presently payable or for whom it is accumulated for distribution as income.
- ~~(7)~~ (8) "Inventory value" means the cost of property to the settlor or the trustee at the time of acquisition or the market value of the property at the time it is delivered to the trustee, or the value of

the property as finally determined for purposes of an estate or inheritance tax.

~~(8)~~ (9) "Minor" means any person under the age of eighteen (18) years.

~~(9)~~ (10) "Person" means a natural person, corporation, or a unit, agency, or other subdivision of national, state, or local government.

~~(10)~~ (11) "Personal representative" means an executor or administrator of a decedent's or absentee's estate, guardian of the person or estate, guardian ad litem or other court appointed representative, next friend, parent or custodian of a minor, attorney in fact, or custodian of an incapacitated person (as defined in IC 29-3-1-7.5).

~~(11)~~ (12) "Remainderman" means a beneficiary entitled to principal, including income which has been accumulated and added to the principal.

~~(12)~~ (13) "Settlor" means a person who establishes a trust including the testator of a will under which a trust is created.

~~(13)~~ (14) "Trust estate" means the trust property and the income derived from its use.

(15) "Trust for a benevolent public purpose" means a charitable trust (as defined in subdivision (5)), a split-interest trust (as defined in Section 4947 of the Internal Revenue Code), and any other form of split-interest charitable trust that has both charitable and noncharitable beneficiaries, including but not limited to charitable remainder trusts, charitable lead trusts, and charitable pooled income funds.

~~(14)~~ (16) "Trust property" means property either placed in trust or purchased or otherwise acquired by the trustee for the trust regardless of whether the trust property is titled in the name of the trustee or the name of the trust.

~~(15)~~ (17) "Trustee" means the person who is charged with the responsibility of administering the trust and includes a successor or added trustee.

SECTION 3. IC 30-4-3-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 27. (Cy Pres Doctrine)

(a) If property is given in to a trust for a benevolent public purpose and the property is to be applied to a particular charitable purpose,

and it is or becomes impossible, impracticable, or illegal to carry out the particular purpose, and if the settlor manifested a more general intention to devote the property to charitable purposes, the trust need not fail, but the court may direct the application of the property to some charitable purpose which falls within the general charitable intention of the settlor.

(b) A living heir of the settlor or a living beneficiary named in the original trust agreement may present evidence to the court of:

**(1) the heir's or beneficiary's opinion of the settlor's intent;
and**

(2) the heir's or beneficiary's wishes;

regarding the property given in trust.

SECTION 4. IC 30-4-3-31 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 31. (a) This section is enacted for the purpose of confirming the power of Indiana courts to modify ~~charitable~~ trusts **for a benevolent public purpose**, and transfers not in trust as described in Section 170(f)(3)(A) of the Internal Revenue Code, to effect compliance with Sections 170, 664, 2055, 2106, and 2522 of the Internal Revenue Code so that these trusts and transfers may obtain the income tax exemption afforded by Section 664 of the Internal Revenue Code and donors or other contributors of gifts or contributions to these trusts and transfers may secure the income, estate, and gift tax charitable deductions granted by Sections 170, 2055, 2106, and 2522 of the Internal Revenue Code.

(b) Upon petition, any court of general or probate jurisdiction in Indiana may, in its discretion, modify the instrument of an inter vivos or testamentary ~~charitable~~ trust **for a benevolent public purpose**, or transfer not in trust as described in Section 170(f)(3)(A) of the Internal Revenue Code, so that the trust or transfer complies with and conforms to the provisions of Sections 170, 664, 2055, 2106, and 2522 of the Internal Revenue Code and regulations thereunder from the date of the trust's or transfer's creation, if consent to the modification is given by:

(1) all beneficiaries of the trust or transfer; and

(2) the settlor of the trust or transfer if the settlor is living at the date of modification.

SECTION 5. IC 30-4-5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 12. (Accounting by Trustees)

(a) Unless the terms of the trust provide otherwise or unless waived in writing by an adult, competent beneficiary, the trustee shall deliver a written statement of accounts to each income beneficiary or his personal representative annually. The statement shall contain at least:

- (1) all receipts and disbursements since the last statement; and
- (2) all items of trust property held by the trustee on the date of the statement at their inventory value.

(b) ~~If property or money is devised or bequeathed or donated for a benevolent public purpose, the trustee shall file a verified written statement annually with the court of the county in which the venue lies under 30-4-6-3 showing at least the items listed in 30-4-5-13(a).~~ **This subsection applies to a charitable trust with assets of at least five hundred thousand dollars (\$500,000). The trustee of a charitable trust shall annually file a verified written certification with the attorney general stating that a written statement of accounts has been prepared showing at least the items listed in section 13(a) of this chapter. The certification must state that the statement of accounts is available to the attorney general and any member of the general public upon request. A charitable trust may not be exempted from this requirement by a provision in a will, trust agreement, indenture, or other governing instrument. This subsection does not prevent a trustee from docketing a charitable trust to finalize a written statement of account or any other lawful purpose in the manner provided in this article. However, this subsection does not apply to an organization that is not required to file a federal information return under Section 6033(a)(2)(A)(i) or Section 6033(a)(2)(A)(ii) of the Internal Revenue Code.**

(c) Upon petition by the settlor, a beneficiary or his personal representative, a person designated by the settlor to have advisory or supervisory powers over the trust, or any other person having an interest in the administration or the benefits of the trust, including the attorney general in the case of a trust for a benevolent public purpose, the court may direct the trustee to file a verified written statement of accounts showing the items listed in ~~30-4-5-13(a)~~. **section 13(a) of this chapter.** The petition may be filed at any time, provided, however, that the court will not, in the absence of good cause shown, require the trustee to file a statement more than once a year.

(d) If the court's jurisdiction is of a continuing nature as provided in

IC 30-4-6-2, the trustee shall file a verified written statement of accounts containing the items shown in ~~30-4-5-13(a)~~ **section 13(a) of this chapter** with the court biennially, and the court may, on its own motion, require the trustee to file such a statement at any other time provided there is good cause for requiring a statement to be filed.

SECTION 6. IC 30-4-5-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 21. Subject to the provisions of this section and of section 23 of this chapter, every trust subject to the laws of this state which is a private foundation as defined in Section 509(a) of the Internal Revenue Code, a charitable trust treated as a private foundation under Section 4947(a)(1) of the Internal Revenue Code, or a split-interest trust as defined in Section 4947(a)(2) of the Internal Revenue Code **for a benevolent public purpose that is subject to the provisions of Subchapter A of Chapter 42 of Subtitle D of the Internal Revenue Code** shall:

- (a) (1) distribute each taxable year amounts sufficient for such trust to avoid liability for the tax imposed by Section 4942 of the Internal Revenue Code, except that this subdivision shall not apply to split-interest trusts;
- (b) (2) not engage in any act of self-dealing (as defined in Section 4941(d) of the Internal Revenue Code) which would subject such trust to liability for the taxes imposed by Section 4941 of the Internal Revenue Code;
- (c) (3) not retain any excess business holding (as defined in Section 4943(c) of the Internal Revenue Code) which would subject such trust to liability for the taxes imposed by Section 4943 of the Internal Revenue Code;
- (d) (4) not make any investment which would jeopardize the carrying out of any of such trust's exempt purposes (within the meaning of Section 4944 of the Internal Revenue Code) and which would subject such trust to liability for the taxes imposed by Section 4944 of the Internal Revenue Code; and
- (e) (5) not make any taxable expenditure (as defined in Section 4945(d) of the Internal Revenue Code) which would subject such trust to liability for the taxes imposed by Section 4945 of the Internal Revenue Code.

The provisions of this section shall not apply to split-interest trusts or amounts thereof to the extent that such split-interest trusts and amounts

are not, under Section 4947 of the Internal Revenue Code, subject to the prohibitions applicable to private foundations.

P.L.42-2000

[H.1131. Approved March 15, 2000.]

AN ACT to amend the Indiana Code concerning motor vehicles.

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

SECTION 1. IC 9-21-5-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 13. **(a) Except as provided in subsection (b),** a person who violates this chapter commits a Class C infraction.

(b) A person who exceeds a speed limit that is:

(1) established under section 6 of this chapter; and

(2) imposed only in the immediate vicinity of a school when children are present;

commits a Class B infraction.

P.L.43-2000

[H.1137. Approved March 15, 2000.]

AN ACT to amend the Indiana Code concerning criminal law and procedure.

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

SECTION 1. IC 35-42-2-1, AS AMENDED BY P.L.188-1999, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: 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 his official duty; ~~or~~
 - (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; **or**
 - (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;**
- (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 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 is mentally or physically disabled and is committed by a person having the care of the mentally or physically disabled person, 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 by IC 35-46-1-1);
 - (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; ~~or~~

- (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; **or**
- (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;**
- (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; and
- (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.
- (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.

P.L.44-2000

[H.1141. Approved March 15, 2000.]

AN ACT to amend the Indiana Code concerning professions and occupations.

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

SECTION 1. IC 25-1-5-4, AS AMENDED BY P.L.22-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 4. (a) The bureau shall employ necessary staff, including specialists and professionals, to carry out the administrative duties and functions of the boards, including but not limited to:

- (1) notice of board meetings and other communication services;

- (2) recordkeeping of board meetings, proceedings, and actions;
- (3) recordkeeping of all persons licensed, regulated, or certified by a board;
- (4) administration of examinations; and
- (5) administration of license or certificate issuance or renewal.

(b) In addition the bureau:

- (1) shall prepare a consolidated statement of the budget requests of all the boards in section 3 of this chapter;
- (2) may coordinate licensing or certification renewal cycles, examination schedules, or other routine activities to efficiently utilize bureau staff, facilities, and transportation resources, and to improve accessibility of board functions to the public; and
- (3) may consolidate, where feasible, office space, recordkeeping, and data processing services.

(c) In administering the renewal of licenses or certificates under this chapter, the bureau shall issue a sixty (60) day notice of expiration to all holders of a license or certificate. The notice shall be accompanied by appropriate renewal forms.

(d) In administering an examination for licensure or certification, the bureau shall make the appropriate application forms available at least thirty (30) days before the deadline for submitting an application to all persons wishing to take the examination.

(e) The bureau may require an applicant for license renewal to submit evidence proving that:

- (1) the applicant continues to meet the minimum requirements for licensure; and
- (2) the applicant is not in violation of:
 - (A) the statute regulating the applicant's profession; or
 - (B) rules adopted by the board regulating the applicant's profession.

(f) **The bureau shall process an application for renewal of a license or certificate:**

- (1) not later than ten (10) days after the bureau receives all required forms and evidence; or**
- (2) within twenty-four (24) hours after the time that an applicant for renewal appears in person at the bureau with all required forms and evidence.**

This subsection does not require the bureau to issue a renewal

license or certificate to an applicant if subsection (g) applies.

(g) The bureau may delay issuing a license renewal for up to ninety (90) days after the renewal date for the purpose of permitting the board to investigate information received by the bureau that the applicant for renewal may have committed an act for which the applicant may be disciplined. If the bureau delays issuing a license renewal, the bureau shall notify the applicant that the applicant is being investigated. Except as provided in subsection ~~(g)~~; **(h)**, before the end of the ninety (90) day period, the board shall do one (1) of the following:

- (1) Deny the license renewal following a personal appearance by the applicant before the board.
- (2) Issue the license renewal upon satisfaction of all other conditions for renewal.
- (3) Issue the license renewal and file a complaint under IC 25-1-7.
- (4) Request the office of the attorney general to conduct an investigation under subsection ~~(h)~~ **(i)** if, following a personal appearance by the applicant before the board, the board has good cause to believe that there has been a violation of IC 25-1-9-4 by the applicant.
- (5) Upon agreement of the applicant and the board and following a personal appearance by the applicant before the board, renew the license and place the applicant on probation status under IC 25-1-9-9.

~~(g)~~ **(h)** If an individual fails to appear before the board under subsection ~~(f)~~; **(g)**, the board may take action on the applicant's license allowed under subsection ~~(f)(1); (f)(2); (g)(1), (g)(2) or (f)(3); (g)(3)~~.

~~(h)~~ **(i)** If the board makes a request under subsection ~~(f)(4); (g)(4)~~, the office of the attorney general shall conduct an investigation. Upon completion of the investigation, the office of the attorney general may file a petition alleging that the applicant has engaged in activity described in IC 25-1-9-4. If the office of the attorney general files a petition, the board shall set the matter for a hearing. If, after the hearing, the board finds the practitioner violated IC 25-1-9-4, the board may impose sanctions under IC 25-1-9-9. The board may delay issuing the renewal beyond the ninety (90) days after the renewal date until a final determination is made by the board. The applicant's license remains valid until the final determination of the board is rendered unless the renewal is denied or the license is summarily suspended

under IC 25-1-9-10.

(j) The license of the applicant for a license renewal remains valid during the ninety (90) day period unless the license renewal is denied following a personal appearance by the applicant before the board before the end of the ninety (90) day period. If the ninety (90) day period expires without action by the board, the license shall be automatically renewed at the end of the ninety (90) day period.

(k) Notwithstanding any other statute, the bureau may stagger license or certificate renewal cycles. However, if a renewal cycle for a specific board or committee is changed, the bureau must obtain the approval of the affected board or committee.

SECTION 2. IC 25-13-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 8. (a) A license to practice dental hygiene in Indiana shall be issued to candidates who pass the board's examinations. The license shall be valid for the remainder of the renewal period in effect on the date the license was issued.

(b) Prior to the issuance of the license, the applicant shall pay a fee set by the board under section 5 of this chapter. A license issued by the board expires on a date specified by the health professions bureau under ~~IC 25-1-5-4(f)~~ IC 25-1-5-4(k) of each even-numbered year. An applicant for license renewal must satisfy the following conditions:

- (1) Pay the renewal fee set by the board under section 5 of this chapter on or before the renewal date specified by the health professions bureau in each even-numbered year.
- (2) Provide the board with a sworn statement signed by the applicant attesting that the applicant has fulfilled the continuing education requirements under IC 25-13-2.
- (3) Be currently certified or successfully complete a course in basic life support through a program approved by the board. The board may waive the basic life support requirement for applicants who show reasonable cause.

(c) If the holder of a license does not renew the license on or before the renewal date specified by the health professions bureau, the license expires and becomes invalid without any action by the board.

(d) A license invalidated under subsection (c) may be reinstated by the board up to three (3) years after such invalidation upon payment to the board by the holder of the invalidated license of a penalty fee set by

the board under section 5 of this chapter plus all past due and current renewal fees.

(e) If a license remains invalid under subsection (c) for more than three (3) years, the holder of the invalid license may obtain a reinstated license if the holder meets the following requirements:

- (1) Files an application with the board on a form and in a manner prescribed by the board.
- (2) Pays all current and past due renewal fees and a penalty fee set by the board under section 5 of this chapter.
- (3) Passes an examination on state and federal laws that are relevant to the practice of dental hygiene as determined by the board.
- (4) Has been continuously engaged in the practice of dental hygiene from the date the holder's license was invalidated through the date the holder applies for reinstatement.
- (5) Other than failing to renew the license, has complied with this chapter and the rules adopted under this chapter during the time specified under subdivision (4).
- (6) Complies with any other requirements established by the board under subsection (g).

The board may require the holder of an invalid license who files an application under this subsection to appear before the board and explain why the holder failed to renew the license.

(f) If the lapse of time in revalidating the license continues beyond three (3) years, and the holder of the invalid license does not meet the requirements under subsection (e), the holder of the invalid license must apply for licensure under section 4 or 17 of this chapter. In addition, the board may require the holder of the expired license to pay all past due renewal fees and a penalty fee set by the board under section 5 of this chapter.

(g) The board may adopt rules under section 5 of this chapter establishing requirements for the reinstatement of an invalidated license.

(h) The license to practice must be displayed at all times in plain view of the patients in the office where the holder is engaged in practice. No person may lawfully practice dental hygiene who does not possess a license and its current renewal.

(i) Biennial renewals of licenses are subject to the provisions of

IC 25-1-2.

SECTION 3. IC 25-14-1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 10. (a) Unless renewed, a license issued by the board expires on a date specified by the health professions bureau under ~~IC 25-1-5-4(f)~~ **IC 25-1-5-4(k)**. An applicant for renewal shall pay the renewal fee set by the board under section 13 of this chapter on or before the renewal date specified by the health professions bureau.

(b) The license shall be properly displayed at all times in the office of the person named as the holder of the license, and a person may not be considered to be in legal practice if the person does not possess the license and renewal card.

(c) If a holder of a dental license does not secure the renewal card on or before the renewal date specified by the health professions bureau, without any action by the board the license together with any related renewal card is invalidated.

(d) Except as provided in section 27.1 of this chapter, a license invalidated under subsection (c) may be reinstated by the board up to three (3) years after its invalidation upon payment of a penalty fee determined by the board under section 13 of this chapter, together with all unpaid renewal fees for each year of delinquency.

(e) Except as provided in section 27.1 of this chapter, if a license remains invalid under subsection (c) for more than three (3) years, the holder of the invalid license may obtain a reinstated license if the holder meets the following requirements:

- (1) Files an application with the board on a form and in a manner prescribed by the board.
- (2) Pays all current and past due renewal fees and a penalty fee set by the board under section 13 of this chapter.
- (3) Passes an examination on state and federal laws that are relevant to the practice of dentistry as determined by the board.
- (4) Has been continuously engaged in the practice of dentistry from the date the holder's license was invalidated through the date the holder applies for reinstatement.
- (5) Other than failing to obtain a renewal card, has complied with this chapter and the rules adopted under this chapter during the time specified under subdivision (4).
- (6) Complies with any other requirements established by the

board under subsection (g).

The board may require the holder of an invalid license who files an application under this subsection to appear before the board and explain why the holder failed to renew the license.

(f) If a license remains invalid under subsection (c) for more than three (3) years and the holder of the invalid license does not meet the requirements under subsection (e), the holder of the invalid license may be issued a license only by reapplying for a license under section 3 or 16 of this chapter. In addition, the board may require the holder of the invalidated license to pay all past due renewal fees and a penalty fee set by the board under section 13 of this chapter.

(g) The board may adopt rules under section 13 of this chapter establishing requirements for the reinstatement of an invalid license. The fee for a duplicate license to practice as a dentist is subject to IC 25-1-8-2.

(h) Biennial renewal of licenses is subject to IC 25-1-2.

(i) An application for renewal of a license under this section must contain a sworn statement signed by the applicant attesting that the applicant has fulfilled the continuing education requirements under IC 25-14-3.



P.L.45-2000

[H.1182. Approved March 15, 2000.]

AN ACT to amend the Indiana Code concerning courts and court officers.

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

SECTION 1. IC 33-5-8.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]:

Chapter 8.5. Blackford Superior Court

Sec. 1. There is established a court of record to be known as the Blackford superior court (referred to as "the court" in this

chapter). The court may have a seal containing the words "Blackford Superior Court, Blackford County, Indiana". Blackford County comprises the judicial district of the court.

Sec. 2. (a) The court has one (1) judge, who shall be elected at the general election every six (6) years in Blackford County. The judge's term begins January 1 following the election and ends December 31 following the election of the judge's successor.

(b) To be eligible to hold office as judge of the court, a person must be:

- (1) a resident of Blackford County;
- (2) less than seventy (70) years of age at the time of taking office; and
- (3) admitted to the practice of law in Indiana.

Sec. 3. (a) Except as provided in subsection (b), the court has the same jurisdiction as the Blackford circuit court.

(b) The Blackford circuit court has exclusive juvenile jurisdiction.

Sec. 4. The judge of the court has the same powers relating to the conduct of the business of the court as the judge of the Blackford circuit court. The judge of the court also may administer oaths, solemnize marriages, and take and certify acknowledgments of deeds.

Sec. 5. The judge of the court shall appoint a bailiff and an official court reporter for the court. The judge may appoint a referee, commissioner, or other personnel as the judge considers necessary to facilitate and transact the business of the court. Their salaries shall be fixed in the same manner as the salaries of the personnel for the Blackford circuit court. Their salaries shall be paid monthly out of the treasury of Blackford County as provided by law. Personnel appointed under this section continue in office until removed by the judge of the court.

Sec. 6. The clerk of the court, under the direction of the judge of the court, shall provide order books, judgment dockets, execution dockets, fee books, and other books for the court, which shall be kept separately from the books and papers of other courts.

Sec. 7. The court shall hold its sessions in the Blackford County courthouse in Hartford City, Indiana, or in such other places in the county as the Blackford county executive may provide. The county executive shall provide and maintain a suitable courtroom and

other rooms and facilities, including furniture and equipment, as may be necessary. The Blackford County fiscal body shall appropriate sufficient funds for the provision and maintenance of these rooms and facilities.

Sec. 8. The jury commissioners appointed by the judge of the Blackford circuit court shall serve as the jury commissioners for the court. Juries shall be selected in the same manner as juries for the Blackford circuit court. The grand jury selected for the Blackford circuit court shall also serve as the grand jury for the court as may be necessary.

Sec. 9. The judge of the Blackford circuit court may, with the consent of the judge of the court, transfer any action or proceeding from the circuit court to the court. The judge of the court may, with the consent of the judge of the circuit court, transfer any action or proceeding from the court to the circuit court.

Sec. 10. The judge of the Blackford circuit court may, with the consent of the judge of the court, sit as a judge of the court in any matter as if the judge of the circuit court were an elected judge of the court. The judge of the court may, with the consent of the judge of the circuit court, sit as a judge of the circuit court in any matter as if the judge of the court were an elected judge of the circuit court.

Sec. 11. The court has a standard small claims and misdemeanor division.

SECTION 2. IC 33-5-10.2 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]:

Chapter 10.2. Dearborn Superior Court

Sec. 1. There is established a court of record to be known as the Dearborn superior court (referred to as "the court" in this chapter). The court may have a seal containing the words "Dearborn Superior Court, Dearborn County, Indiana". Dearborn County comprises the judicial district of the court.

Sec. 2. (a) The court has one (1) judge, who shall be elected at the general election every six (6) years in Dearborn County. The judge's term begins January 1 following the election and ends December 31 following the election of the judge's successor.

(b) To be eligible to hold office as judge of the court, a person must:

- (1) be a resident of Dearborn County;
- (2) be less than seventy (70) years of age at the time of taking office; and
- (3) be admitted to the bar of Indiana.

Sec. 3. (a) Except as provided in subsection (b), the court has the same jurisdiction as the Dearborn circuit court.

(b) The Dearborn circuit court has exclusive juvenile jurisdiction.

Sec. 4. The judge of the court has the same powers relating to the conduct of the business of the court as the judge of the Dearborn circuit court. The judge of the court also may administer oaths, solemnize marriages, and take and certify acknowledgments of deeds.

Sec. 5. The judge of the court shall appoint a bailiff and an official court reporter for the court. The judge may appoint a referee, commissioner, or other personnel as the judge considers necessary to facilitate and transact the business of the court. Their salaries shall be fixed in the same manner as the salaries of the personnel for the Dearborn circuit court. Their salaries shall be paid monthly out of the treasury of Dearborn County as provided by law. Personnel appointed under this section continue in office until removed by the judge of the court.

Sec. 6. The clerk of the court, under the direction of the judge of the court, shall provide order books, judgment dockets, execution dockets, fee books, and other books for the court, which shall be kept separately from the books and papers of other courts.

Sec. 7. The court shall hold its sessions in the Dearborn County courthouse in Lawrenceburg, Indiana, or in such other places in the county as the Dearborn county executive may provide. The county executive shall provide and maintain a suitable courtroom and other rooms and facilities, including furniture and equipment, as may be necessary. The Dearborn County fiscal body shall appropriate sufficient funds for the provision and maintenance of these rooms and facilities.

Sec. 8. The jury commissioners appointed by the judge of the Dearborn circuit court shall serve as the jury commissioners for the court. Juries shall be selected in the same manner as juries for the Dearborn circuit court. The grand jury selected for the Dearborn circuit court shall also serve as the grand jury for the

court as may be necessary.

Sec. 9. The judge of the Dearborn circuit court may, with the consent of the judge of the court, transfer any action or proceeding from the circuit court to the court. The judge of the court may, with the consent of the judge of the circuit court, transfer any action or proceeding from the court to the circuit court.

Sec. 10. The judge of the Dearborn circuit court may, with the consent of the judge of the court, sit as a judge of the court in any matter as if the judge of the circuit court were an elected judge of the court. The judge of the court may, with the consent of the judge of the circuit court, sit as a judge of the circuit court in any matter as if the judge of the court were an elected judge of the circuit court.

Sec. 11. The court has a standard small claims and misdemeanor division.

SECTION 3. IC 33-5-37.8 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]:

Chapter 37.8. Orange Superior Court

Sec. 1. There is established a court of record to be known as the Orange superior court (referred to as "the court" in this chapter). The court may have a seal containing the words "Orange Superior Court, Orange County, Indiana". Orange County comprises the judicial district of the court.

Sec. 2. (a) The court has one (1) judge, who shall be elected at the general election every six (6) years in Orange County. The judge's term begins January 1 following the election and ends December 31 following the election of the judge's successor.

(b) To be eligible to hold office as judge of the court, a person must:

- (1) be a resident of Orange County;
- (2) be less than seventy (70) years of age at the time of taking office; and
- (3) be admitted to the bar of Indiana.

Sec. 3. (a) Except as provided in subsection (b), the court has the same jurisdiction as the Orange circuit court.

(b) The Orange circuit court has exclusive juvenile jurisdiction.

Sec. 4. The judge of the court has the same powers relating to the conduct of the business of the court as the judge of the Orange

circuit court. The judge of the court also may administer oaths, solemnize marriages, and take and certify acknowledgments of deeds.

Sec. 5. The judge of the court shall appoint a bailiff and an official court reporter for the court. The judge may appoint a referee, commissioner, or other personnel as the judge considers necessary to facilitate and transact the business of the court. Their salaries shall be fixed in the same manner as the salaries of the personnel for the Orange circuit court. Their salaries shall be paid monthly out of the treasury of Orange County as provided by law. Personnel appointed under this section continue in office until removed by the judge of the court.

Sec. 6. The clerk of the court, under the direction of the judge of the court, shall provide order books, judgment dockets, execution dockets, fee books, and other books for the court, which shall be kept separately from the books and papers of other courts.

Sec. 7. The court shall hold its sessions in the Paoli Office Complex in Paoli, Indiana, or in such other places in the county as the Orange county executive may provide. The county executive shall provide and maintain a suitable courtroom and other rooms and facilities, including furniture and equipment, as may be necessary. The Orange County fiscal body shall appropriate sufficient funds for the provision and maintenance of these rooms and facilities.

Sec. 8. The jury commissioners appointed by the judge of the Orange circuit court shall serve as the jury commissioners for the court. Juries shall be selected in the same manner as juries for the Orange circuit court. The grand jury selected for the Orange circuit court shall also serve as the grand jury for the court as may be necessary.

Sec. 9. The judge of the Orange circuit court may, with the consent of the judge of the court, transfer any action or proceeding from the circuit court to the court. The judge of the court may, with the consent of the judge of the circuit court, transfer any action or proceeding from the court to the circuit court.

Sec. 10. The judge of the Orange circuit court may, with the consent of the judge of the court, sit as a judge of the court in any matter as if the judge of the circuit court were an elected judge of the court. The judge of the court may, with the consent of the judge

of the circuit court, sit as a judge of the circuit court in any matter as if the judge of the court were an elected judge of the circuit court.

Sec. 11. The court has a standard small claims and misdemeanor division.

SECTION 4. IC 33-5-38.8 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]:

Chapter 38.8. Rush Superior Court

Sec. 1. There is established a court of record to be known as the Rush superior court (referred to as "the court" in this chapter). The court may have a seal containing the words "Rush Superior Court, Rush County, Indiana". Rush County comprises the judicial district of the court.

Sec. 2. (a) The court has one (1) judge, who shall be elected at the general election every six (6) years in Rush County. The judge's term begins January 1 following the election and ends December 31 following the election of the judge's successor.

(b) To be eligible to hold office as judge of the court, a person must:

- (1) be a resident of Rush County;**
- (2) be less than seventy (70) years of age at the time of taking office; and**
- (3) be admitted to the bar of Indiana.**

Sec. 3. The court has the same jurisdiction as the Rush circuit court.

Sec. 4. The judge of the court has the same powers relating to the conduct of the business of the court as the judge of the Rush circuit court. The judge of the court also may administer oaths, solemnize marriages, and take and certify acknowledgments of deeds.

Sec. 5. The judge of the court shall appoint a bailiff and an official court reporter for the court. The judge may appoint a referee, commissioner, or other personnel as the judge considers necessary to facilitate and transact the business of the court. Their salaries shall be fixed in the same manner as the salaries of the personnel for the Rush circuit court. Their salaries shall be paid at least monthly out of the treasury of Rush County as provided by law. Personnel appointed under this section continue in office until

removed by the judge of the court.

Sec. 6. The clerk of the court, under the direction of the judge of the court, shall provide order books, judgment dockets, execution dockets, fee books, and other books for the court, which shall be kept separately from the books and papers of other courts.

Sec. 7. The court shall hold its sessions in the Rush County courthouse in Rushville, Indiana, or in such other places in the county as the Rush county executive may provide. The county executive shall provide and maintain a suitable courtroom and other rooms and facilities, including furniture and equipment, as may be necessary. The Rush County fiscal body shall appropriate sufficient funds for the provision and maintenance of these rooms and facilities.

Sec. 8. The jury commissioners appointed by the judge of the Rush circuit court shall serve as the jury commissioners for the court. Juries shall be selected in the same manner as juries for the Rush circuit court. The grand jury selected for the Rush circuit court shall also serve as the grand jury for the court as may be necessary.

Sec. 9. The judge of the Rush circuit court may, with the consent of the judge of the court, transfer any action or proceeding from the circuit court to the court. The judge of the court may, with the consent of the judge of the circuit court, transfer any action or proceeding from the court to the circuit court.

Sec. 10. The judge of the Rush circuit court may, with the consent of the judge of the court, sit as a judge of the court in any matter as if the judge of the circuit court were an elected judge of the court. The judge of the court may, with the consent of the judge of the circuit court, sit as a judge of the circuit court in any matter as if the judge of the court were an elected judge of the circuit court.

Sec. 11. The court has a standard small claims and misdemeanor division.

SECTION 5. IC 33-5-44.1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1. There is hereby established a superior court in Vigo County, Indiana, which court shall consist of ~~two (2)~~ **four (4)** judges who shall hold their office for six (6) years if they behave well and until their successors have been elected and qualified. In addition to the ~~two (2)~~ **four (4)** judges, the judge of

the Vigo circuit court may sit as a judge of said Vigo superior court as hereinafter provided in this chapter.

SECTION 6. IC 33-5-44.1-28 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 28. Vigo superior court has a standard small claims and misdemeanor division.**

SECTION 7. IC 33-10.5-1-6 (CURRENT VERSION) IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 6. The county courts of the following counties each have two (2) judges:

Madison County.

Tippecanoe County.

~~Vigo County.~~

SECTION 8. IC 33-10.5-1-6, AS AMENDED BY P.L.196-1999, SECTION 60, (DELAYED VERSION) IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 6. The county ~~courts~~ **court** of the following counties each have **Madison County** has two (2) judges.

~~Madison County.~~

~~Vigo County.~~

SECTION 9. IC 33-5-44.1-27 IS REPEALED [EFFECTIVE JULY 1, 2000].

SECTION 10. [EFFECTIVE JULY 1, 2000] (a) **At midnight, June 30, 2000, Vigo county court No. 4 is abolished.**

(b) Any case pending in Vigo county court No. 4 after the close of business on June 30, 2000, is transferred on July 1, 2000, to Vigo superior court No. 4, established by IC 33-5-44.1-1, as amended by this act. All cases transferred under this SECTION that are eligible to be heard by the standard small claims and misdemeanor division shall be transferred to the standard small claims and misdemeanor division of the court in accordance with the venue requirements prescribed in Rule 75 of the Indiana Rules of Trial Procedure. A case transferred under this SECTION shall be treated as if the case were filed in Vigo superior court No. 4.

(c) On July 1, 2000, all property and obligations of Vigo county court No. 4 become the property and obligations of Vigo superior court No. 4.

(d) The initial judge of Vigo superior court No. 4 added by

IC 33-5-44.1-1, as amended by this act, shall be the person who is the Vigo county court No. 4 judge on June 30, 2000. The term of the initial judge begins July 1, 2000, and ends December 31, 2004. The initial election of a judge for Vigo superior court No. 4, added by IC 33-5-44.1-1, as amended by this act, shall be the general election conducted on November 2, 2004. The term of the initial elected judge begins January 1, 2005.

(e) This SECTION expires January 1, 2006.

SECTION 11. [EFFECTIVE JULY 1, 2000] (a) At midnight, June 30, 2000, Vigo county court No. 5 is abolished.

(b) Any case pending in Vigo county court No. 5 after the close of business on June 30, 2000, is transferred on July 1, 2000, to Vigo superior court No. 5, established by IC 33-5-44.1-1, as amended by this act. All cases transferred under this SECTION that are eligible to be heard by the standard small claims and misdemeanor division shall be transferred to the standard small claims and misdemeanor division of the court in accordance with the venue requirements prescribed in Rule 75 of the Indiana Rules of Trial Procedure. A case transferred under this SECTION shall be treated as if the case were filed in Vigo superior court No. 5.

(c) On July 1, 2000, all property and obligations of Vigo county court No. 5 become the property and obligations of Vigo superior court No. 5.

(d) The initial judge of Vigo superior court No. 5 added by IC 33-5-44.1-1, as amended by this act, shall be the person who is the Vigo county court No. 5 judge on June 30, 2000. The term of the initial judge begins July 1, 2000, and ends December 31, 2002. The initial election of a judge for Vigo superior court No. 5, added by IC 33-5-44.1-1, as amended by this act, shall be the general election conducted on November 5, 2002. The term of the initial elected judge begins January 1, 2003.

(e) This SECTION expires January 1, 2004.

SECTION 12. [EFFECTIVE JULY 1, 2000] (a) On July 1, 2000, the Dearborn county court is abolished.

(b) Any case pending in the Dearborn county court after the close of business on June 30, 2000, is transferred on July 1, 2000, to the Dearborn superior court established by this act. All cases transferred under this SECTION that are eligible to be heard by the standard small claims and misdemeanor division shall be

transferred to the standard small claims and misdemeanor division of the court. A case transferred under this SECTION shall be treated as if the case were filed in the Dearborn superior court.

(c) On July 1, 2000, all property and obligations of the Dearborn county court become the property and obligations of the Dearborn superior court.

(d) The initial judge of the Dearborn superior court added by this act shall be the person who is the Dearborn county court judge on June 30, 2000. The term of the initial judge begins July 1, 2000, and ends December 31, 2002. The initial election of a judge for the Dearborn superior court added by this act shall be the general election conducted on November 5, 2002. The term of the initial elected judge begins January 1, 2003.

(e) This SECTION expires January 2, 2003.

SECTION 13. [EFFECTIVE JULY 1, 2000] (a) On July 1, 2000, the Blackford county court is abolished.

(b) Any case pending in the Blackford county court after the close of business on June 30, 2000, is transferred on July 1, 2000, to the Blackford superior court established by this act. All cases transferred under this SECTION that are eligible to be heard by the standard small claims and misdemeanor division shall be transferred to the standard small claims and misdemeanor division of the court. A case transferred under this SECTION shall be treated as if the case were filed in the Blackford superior court.

(c) On July 1, 2000, all property and obligations of the Blackford county court become the property and obligations of the Blackford superior court.

(d) The initial judge of the Blackford superior court added by this act shall be the person who is the Blackford county court judge on June 30, 2000. The term of the initial judge begins July 1, 2000, and ends December 31, 2004. The initial election of a judge for the Blackford superior court added by this act shall be the general election conducted on November 2, 2004. The term of the initial elected judge begins January 1, 2005.

SECTION 14. [EFFECTIVE JULY 1, 2000] (a) On July 1, 2000, the Orange county court is abolished.

(b) Any case pending in the Orange county court after the close of business on June 30, 2000, is transferred on July 1, 2000, to the Orange superior court established by this act. All cases transferred

under this SECTION that are eligible to be heard by the standard small claims and misdemeanor division shall be transferred to the standard small claims and misdemeanor division of the court. A case transferred under this SECTION shall be treated as if the case were filed in the Orange superior court.

(c) On July 1, 2000, all property and obligations of the Orange county court become the property and obligations of the Orange superior court.

(d) The initial judge of the Orange superior court added by this act shall be the person who is the Orange county court judge on June 30, 2000. The term of the initial judge begins July 1, 2000, and ends December 31, 2002. The initial election of a judge for the Orange superior court added by this act shall be the general election conducted on November 5, 2002. The term of the initial elected judge begins January 1, 2003.

(e) This SECTION expires January 2, 2003.

SECTION 15. [EFFECTIVE JULY 1, 2000] (a) On July 1, 2000, the Rush county court is abolished.

(b) Any case pending in the Rush county court after the close of business on June 30, 2000, is transferred on July 1, 2000, to the Rush superior court established by this act. All cases transferred under this SECTION that are eligible to be heard by the standard small claims and misdemeanor division shall be transferred to the standard small claims and misdemeanor division of the court. A case transferred under this SECTION shall be treated as if the case were filed in the Rush superior court.

(c) On July 1, 2000, all property and obligations of the Rush county court become the property and obligations of the Rush superior court.

(d) The initial judge of the Rush superior court added by this act shall be the person who is the Rush county court judge on June 30, 2000. The term of the initial judge begins July 1, 2000, and ends December 31, 2002. The initial election of a judge for the Rush superior court added by this act shall be the general election conducted on November 5, 2002. The term of the initial elected judge begins January 1, 2003.

(e) This SECTION expires January 2, 2003.

P.L.46-2000

[H.1184. Approved March 15, 2000.]

AN ACT to amend the Indiana Code concerning burial grounds and cemeteries.

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

SECTION 1. IC 14-8-2-13.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 13.5. "Archeological plan", for purposes of IC 14-21-1, has the meaning set forth in IC 14-21-1-8(b).**

SECTION 2. IC 14-8-2-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 30. "Burial ground", for purposes of ~~IC 14-21-1~~ **IC 14-21**, has the meaning set forth in IC 14-21-1-3.

SECTION 3. IC 14-8-2-37.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 37.5. "Cemetery", for purposes of IC 14-21, has the meaning set forth in IC 23-14-33-7.**

SECTION 4. IC 14-8-2-68.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 68.5. "Development plan", for purposes of IC 14-21-1, has the meaning set forth in IC 14-21-1-8(c).**

SECTION 5. IC 14-8-2-127 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 127. "Human remains", for purposes of ~~IC 14-21-1~~ **IC 14-21**, has the meaning set forth in IC 14-21-1-7.

SECTION 6. IC 14-8-2-219 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 219. "Property" has the following meaning:

- (1) For purposes of IC 14-12-2 **and IC 14-21-3**, the meaning set forth in IC 14-12-2-6.
- (2) For purposes of IC 14-18-8, the meaning set forth in IC 14-18-8-1.

SECTION 7. IC 14-21-1-8 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 8. **(a) As used in this chapter, "plan" refers to:**

- (1) an archeological plan, as described in subsection (b); or**
- (2) a development plan, as described in subsection (c).**

(b) As used in this chapter, ~~"plan"~~ **"archeological plan"** means ~~an archeological~~ a plan for the systematic recovery, analysis, and disposition by scientific methods of material evidence and information about the life and culture in past ages.

(c) As used in this chapter, "development plan" means a plan for the erection, alteration, or repair of any structure.

SECTION 8. IC 14-21-1-13.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 13.5. (a) The division may conduct a program to survey and register in a registry of Indiana cemeteries and burial grounds that the division establishes and maintains all cemeteries and burial grounds in each county in Indiana. The division may conduct the program alone or by entering into an agreement with one (1) or more of the following entities:**

- (1) The Indiana Historical Society established under IC 23-6-3.**
- (2) A historical society as defined in IC 20-5-17.5-1(a).**
- (3) The Historic Landmarks Foundation of Indiana.**
- (4) A professional archeologist or historian associated with a college or university.**
- (5) A township trustee.**
- (6) Any other entity that the division selects.**

(b) In conducting a program under subsection (a), the division may receive gifts and grants under terms, obligations, and liabilities that the director considers appropriate. The director shall use a gift or grant received under this subsection:

- (1) to carry out subsection (a); and**
- (2) according to the terms of the gift or grant.**

(c) At the request of the director, the auditor of state shall establish a trust fund for purposes of holding money received under subsection (b).

(d) The director shall administer a trust fund established by subsection (c). The expenses of administering the trust fund shall

be paid from money in the trust fund.

(e) The treasurer of state shall invest the money in the trust fund established by subsection (c) that is not currently needed to meet the obligations of the trust fund in the same manner as other public trust funds may be invested. The treasurer of state shall deposit in the trust fund the interest that accrues from the investment of the trust fund.

(f) Money in the trust fund at the end of a state fiscal year does not revert to the state general fund.

(g) Nothing in this section may be construed to authorize violation of the confidentiality of information requirements of 16 U.S.C. 470(w) and 16 U.S.C. 470(h)(h).

SECTION 9. IC 14-21-1-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 25. (a) The commission shall adopt rules establishing standards for plans.

(b) With respect to archeological plans, the rules must impose a standard of conduct that does the following:

- (1) Promotes the scientific investigation and conservation of past cultures.
- (2) Considers the interests and expertise of amateur archeologists and professional archeologists.

(c) With respect to development plans, the rules must impose a standard of conduct that preserves and protects both of the following:

- (1) The rights and interests of landowners.
- (2) The sensitivity of human beings for treating human remains with respect and dignity, as determined by the commission.

~~(b)~~ **(d) Plans required under this chapter must be submitted to the department for approval according to rules adopted by the commission.**

SECTION 10. IC 14-21-1-26.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 26.5. **(a) Notwithstanding IC 23-14-44-1, this section does not apply to the following:**

- (1) A public utility (as defined in IC 8-1-2-1(a)).
- (2) A corporation organized under IC 8-1-13.
- (3) A municipally owned utility (as defined in IC 8-1-2-1(h)).
- (4) A surface coal mining and reclamation operation

permitted under IC 14-34.

Except as provided in this subsection, subsection (b), and subsection (c), a person may not disturb the ground within one hundred (100) feet of a recorded burial ground or cemetery for the purpose of erecting, altering, or repairing any structure without having a development plan approved by the department under section 25 of this chapter or in violation of a development plan approved by the department under section 25 of this chapter. The department must review the development plan not later than sixty (60) days after the development plan is submitted.

(b) A development plan:

- (1) must be approved if a person intends to construct a new structure or alter or repair an existing structure that would significantly impact the burial ground or cemetery; and
- (2) is not required if a person intends to erect, alter, or repair an existing structure for an incidental or existing use that would not impact the burial ground or cemetery.

(c) A development plan for a governmental entity to disturb ground within one hundred (100) feet of a recorded burial ground or cemetery must be approved as follows:

- (1) A development plan of a municipality requires approval of the executive of the municipality and does not require the approval of the department. However, if the burial ground or cemetery is located outside the municipality, approval is also required by the executive of the county where the burial ground or cemetery is located. A county cemetery commission established under IC 23-14-67-2 may advise the executive of the municipality on whether to approve a development plan.
- (2) A development plan of a governmental entity other than:
 - (A) a municipality; or
 - (B) the state;

requires the approval of the executive of the county where the governmental entity is located and does not require the approval of the department. However, if the governmental entity is located in more than one (1) county, only the approval of the executive of the county where the burial ground or cemetery is located is required. A county cemetery commission established under IC 23-14-67-2 may advise the county executive on whether to approve a development plan.

(3) A development plan of the state requires the approval of the department.

(d) A person who recklessly, knowingly, or intentionally violates this section commits a Class A misdemeanor. However, the offense is a Class D felony if the person disturbs buried human remains or grave markers while committing the offense.

SECTION 11. IC 14-21-3 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]:

Chapter 3. Recording Interests in Property Containing a Burial Ground or Cemetery

Sec. 1. (a) Before a person may record any interest in property on which a burial ground or cemetery is known to be located, the owner of the property must record the deed to the property in the recorder's office of the county where the property is located. The bottom portion of the deed must state in capital letters in bold type that the deed pertains to property on which a burial ground or cemetery is known to be located.

(b) The county auditor shall send a copy of the deed to:

(1) the department; and

(2) the local cemetery board, or if no local cemetery board exists, to the county commissioners;

not later than thirty (30) days after the deed is recorded under subsection (a).

Sec. 2. The recording that this chapter requires is in addition to any recording that may be required by IC 23-14-34-1.

Sec. 3. Beginning January 1, 2003, a person who violates section 1 of this chapter commits a Class C infraction.

Sec. 4. Nothing in this chapter may be construed to authorize violation of the confidentiality of information requirements of 16 U.S.C. 470(w) and 16 U.S.C. 470(h)(h).

Sec. 5. This chapter does not apply to the following:

(1) A public utility (as defined in IC 8-1-2-1(a)).

(2) A corporation organized under IC 8-1-13.

(3) A municipally owned utility (as defined in IC 8-1-2-1(h)).

(4) Property that has been subject to bonding or other financial assurances released by the appropriate governmental agency after compliance with applicable state laws.

P.L.47-2000

[H.1192. Approved March 15, 2000.]

AN ACT to amend the Indiana Code concerning criminal law and procedure.

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

SECTION 1. IC 33-19-6-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 13. In each criminal action in which:

(1) a person is found to have committed the offense of:

- (A) murder (IC 35-42-1-1);
- (B) causing suicide (IC 35-42-1-2);
- (C) voluntary manslaughter (IC 35-42-1-3);
- (D) reckless homicide (IC 35-42-1-5);
- (E) battery (IC 35-42-2-1); or
- (F) **domestic battery (IC 35-42-2-1.3); or**
- (G) rape (IC 35-42-4-1); and

(2) the victim:

(A) is a spouse or former spouse of the person who committed an offense under subdivision (1);

(B) is or was living as if a spouse of the person who committed the offense of domestic battery under subdivision (1)(F); or

(C) has a child in common with the person who committed the offense of domestic battery under subdivision (1)(F);

the court shall order the person to pay a domestic violence prevention and treatment fee of fifty dollars (\$50) to the clerk.

SECTION 2. IC 35-33-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1. (a) A law enforcement officer may arrest a person when the officer has:

- (1) a warrant commanding that the person be arrested;
- (2) probable cause to believe the person has committed or attempted to commit, or is committing or attempting to commit, a felony;

(3) probable cause to believe the person has violated the provisions of IC 9-26-1-1(1), IC 9-26-1-1(2), IC 9-26-1-2(1), IC 9-26-1-2(2), IC 9-26-1-3, IC 9-26-1-4, or IC 9-30-5;

(4) probable cause to believe the person is committing or attempting to commit a misdemeanor in the officer's presence;

(5) probable cause to believe the person has committed a battery resulting in bodily injury under IC 35-42-2-1 **or domestic battery under IC 35-42-2-1.3**. The officer may use an affidavit executed by an individual alleged to have direct knowledge of the incident alleging the elements of the offense of battery to establish probable cause;

(6) probable cause to believe that the person violated IC 35-46-1-15.1 (invasion of privacy);

(7) probable cause to believe that the person has committed stalking (IC 35-45-10);

(8) probable cause to believe that the person violated IC 35-47-2-1 (carrying a handgun without a license) or IC 35-47-2-22 (counterfeit handgun license); or

(9) probable cause to believe that the person is violating or has violated an order issued under IC 35-50-7.

(b) A person who:

(1) is employed full time as a federal enforcement officer;

(2) is empowered to effect an arrest with or without warrant for a violation of the United States Code; and

(3) is authorized to carry firearms in the performance of the person's duties;

may act as an officer for the arrest of offenders against the laws of this state where the person reasonably believes that a felony has been or is about to be committed or attempted in the person's presence.

SECTION 3. IC 35-42-2-1.3, AS ADDED BY P.L.188-1999, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1.3. A person who knowingly or intentionally touches a person who:

(1) is or was a spouse of the other person;

(2) is or was living as if a spouse of the other person; or

(3) has a child in common with the other person;

in a rude, insolent, or angry manner that results in bodily injury to the person described in subdivision (1), (2), or (3) commits domestic

battery, a Class A misdemeanor. However, the offense is a Class D felony if the person has a previous, unrelated conviction under this section **(or IC 35-42-2-1(a)(2)(E) before its repeal).**

P.L.48-2000

[H.1222. Approved March 15, 2000.]

AN ACT to amend the Indiana Code concerning insurance.

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

SECTION 1. IC 27-1-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 3. As used in this article, and unless a different meaning appears from the context: (a) "Insurance" means a contract of insurance or an agreement by which one (1) party, for a consideration, promises to pay money or its equivalent or to do an act valuable to the insured upon the destruction, loss or injury of something in which the other party has a pecuniary interest, or in consideration of a price paid, adequate to the risk, becomes security to the other against loss by certain specified risks; to grant indemnity or security against loss for a consideration.

(b) "Commissioner" means the "insurance commissioner" of this state.

(c) "Department" means "the department of insurance" of this state.

(d) The term "company" or "corporation" means an insurance company and includes all persons, partnerships, corporations, associations, orders or societies engaged in or proposing to engage in making any kind of insurance authorized by the laws of this state.

(e) The term "domestic company" or "domestic corporation" means an insurance company organized under the insurance laws of this state.

(f) The term "foreign company" or "foreign corporation" means an insurance company organized under the laws of any state of the United States other than this state or under the laws of any territory or insular possession of the United States or the District of Columbia.

(g) The term "alien company" or "alien corporation" means an

insurance company organized under the laws of any country other than the United States or territory or insular possession thereof or of the District of Columbia.

(h) The term "person" includes individuals, corporations, associations, and partnerships; personal pronoun includes all genders; the singular includes the plural and the plural includes the singular.

(k) The term "insurance solicitor" means any natural person employed to aid an insurance agent in any manner in soliciting, negotiating or effecting contracts of insurance or indemnity other than life.

(l) The term "principal office" means that office maintained by the corporation in this state, the address of which is required by the provisions of this article to be kept on file in the office of the department.

(m) The term "articles of incorporation" includes both the original articles of incorporation and any and all amendments thereto, except where the original articles of incorporation only are expressly referred to, and includes articles of merger, consolidation and reinsurance, and in case of corporations, heretofore organized, articles of reorganization filed in the office of the secretary of state, and all amendments thereto.

(n) The term "shareholder" means one who is a holder of record of shares of stock in a corporation, unless the context otherwise requires.

(o) The term "policyholder" means one who is a holder of a contract of insurance in an insurance company.

(p) The term "member" means one who holds a contract of insurance or is insured in an insurance company other than a stock corporation.

(q) The term "capital stock" means the aggregate amount of the par value of all shares of capital stock.

(r) The term "capital" means the aggregate amount paid in on the shares of capital stock of a corporation issued and outstanding.

(s) The term "life insurance company" means any company making one or more of the kinds of insurance set out and defined in class 1(a) of IC 27-1-5-1.

(t) The term "casualty insurance company" means any company making the kind or kinds of insurance set out and defined in class 2 of IC 27-1-5-1.

(u) The term "fire and marine insurance company" means any

company making the kind or kinds of insurance set out and defined in class 3 of IC 27-1-5-1.

(v) The term "certificate of authority" means an instrument in writing issued by the department to an insurer, which sets out the authority of such insurer to engage in the business of insurance or activities connected therewith.

(w) The term "premium" means money or any other thing of value paid or given in consideration to an insurer, agent, or solicitor on account of or in connection with a contract of insurance and shall include as a part but not in limitation of the above, policy fees, admission fees, membership fees and regular or special assessments and payments made on account of annuities.

(x) The term "insurer" means a company, firm, partnership, association, order, society or system making any kind or kinds of insurance and shall include associations operating as Lloyds, reciprocal or inter-insurers, or individual underwriters.

(y) The terms "assessment plan" and "assessment insurance" mean the mode or plan and the business of a corporation, association or society organized and limited to the making of insurance on the lives of persons and against disability from disease, bodily injury or death by accident, and which provides for the payment of policy claims, accumulation of reserve or emergency funds, and the expenses of the management and prosecution of its business by payments to be made either at stated periods named in the contract or upon assessments, and wherein the insured's liability to contribute is not limited to a fixed sum.

(z) "Agency billed" refers to a system in which an insured pays a premium directly to an insurance agency.

SECTION 2. IC 27-1-15.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 3. (a) A person may not act as or hold himself out to be an insurance agent, surplus lines insurance agent, limited insurance representative, or consultant unless he is duly licensed. An insurance agent, surplus lines insurance agent, or limited insurance representative may not make application for, procure, negotiate for, or place for others any policies for any kinds of insurance as to which he is not then qualified and duly licensed. An insurance agent and a limited insurance representative may receive qualification for a license in one (1) or more of the kinds of insurance

defined in Class I, Class II, and Class III of IC 27-1-5-1. A surplus lines insurance agent may receive qualification for a license in one (1) or more of the kinds of insurance defined in Class II and Class III of IC 27-1-5-1 from insurers that are authorized to do business in one (1) or more states of the United States of America but which insurers are not authorized to do business in Indiana, whenever, after diligent effort, as determined to the satisfaction of the insurance department, such licensee is unable to procure the amount of insurance desired from insurers authorized and licensed to transact business in Indiana. The commissioner may issue a limited insurance representative's license to the following without examination:

- (1) a person who is a ticket-selling agent of a common carrier who will act only with reference to the issuance of insurance on personal effects carried as baggage, in connection with the transportation provided by such common carrier;
- (2) a person who will only negotiate or solicit limited travel accident insurance in transportation terminals;
- (3) a person who will only negotiate or solicit insurance covered by IC 27-8-4;
- (4) a person who will only negotiate or solicit insurance under Class II(j); or
- (5) to any person who will negotiate or solicit a kind of insurance that the commissioner finds does not require an examination to demonstrate professional competency.

(b) A corporation or limited liability company may be licensed as an insurance agent, surplus lines insurance agent, or limited insurance representative. Every officer, director, stockholder, or employee of the corporation or limited liability company personally engaged in Indiana in soliciting or negotiating policies of insurance shall be registered with the commissioner as to its license, and each such member, officer, director, stockholder, or employee shall also qualify as an individual licensee. However, this section does not apply to a management association, partnership, or corporation whose operations do not entail the solicitation of insurance from the public.

(c) The commissioner may not grant, renew, continue or permit to continue any license if he finds that the license is being or will be used by the applicant or licensee for the purpose of writing controlled business. "Controlled business" means:

- (1) insurance written on the interests of the licensee or those of his immediate family or of his employer; or
- (2) insurance covering himself or members of his immediate family or a corporation, limited liability company, association, or partnership, or the officers, directors, substantial stockholders, partners, members, managers, employees of such a corporation, limited liability company, association, or partnership, of which he is or a member of his immediate family is an officer, director, substantial stockholder, partner, member, manager, associate, or employee.

However, this section does not apply to insurance written or interests insured in connection with or arising out of credit transactions. Such a license shall be deemed to have been or intended to be used for the purpose of writing controlled business, if the commissioner finds that during any twelve (12) month period the aggregate commissions earned from such controlled business has exceeded twenty-five percent (25%) of the aggregate commission earned on all business written by such applicant or licensee during the same period.

(d) An insurer, insurance agent, surplus lines insurance agent, or limited insurance representative may not pay any commission, brokerage, or other valuable consideration to any person for services as an insurance agent, surplus lines insurance agent, or limited insurance representative within Indiana, unless the person held, at the time the services were performed, a valid license for that kind of insurance as required by the laws of Indiana for such services. A person, other than a person duly licensed by the state of Indiana as an insurance agent, surplus lines insurance agent, or limited insurance representative, may not, at the time such services were performed, accept any such commission, brokerage, or other valuable consideration. However, any such person duly licensed under this chapter may:

- (1) pay or assign his commissions or direct that his commissions be paid:
 - (A) to a partnership of which he is a member, an employee, or an agent; or
 - (B) to a corporation of which he is an officer, employee, or agent; or
- (2) pay, pledge, assign, or grant a security interest in the person's commission to a lending institution as collateral for a loan if the

payment, pledge, assignment, or grant of a security interest is not, directly or indirectly, in exchange for insurance services performed.

This section shall not prevent payment or receipt of renewal or other deferred commissions to or by any person entitled thereto under this section.

(e) The license shall state the name and resident address of the licensee, date of issue, the renewal or expiration date, the line or lines of insurance covered by the license, and such other information as the commissioner considers proper for inclusion in the license.

(f) All licenses issued under this chapter, **other than a limited insurance representative's license or an insurance agent's license**, shall continue in force not longer than twenty-four (24) months. **A limited insurance representative's license and an insurance agent's license continue in force for forty-eight (48) months.** The insurance department shall establish procedures for the renewal of licenses. A license may be renewed after it expires as follows:

(1) A person who applies for a license renewal not more than twenty-four (24) months after the person's license expires must:

(A) satisfy the requirements of IC 27-1-15.5-7.1(b); and

(B) pass to the department's satisfaction the laws portion of the examination required of an applicant under IC 27-1-15.5-4(g)(5) for the type of license for which the person seeks renewal.

(2) A person who applies for a license renewal more than twenty-four (24) months after it expires must successfully complete the education requirements of IC 27-1-15.5-4(e) and pass to the department's satisfaction the examination required of an applicant for the type of license for which the person seeks renewal.

All license renewals must be accompanied by payment of the renewal fee as provided in section 4(d) of this chapter.

(g) A license as an insurance agent, surplus lines insurance agent, or limited insurance representative may not be required of the following:

(1) Any regular salaried officer or employee of an insurance company, or of a licensed insurance agent, surplus lines insurance agent, or limited insurance representative if such officer or

employee's duties and responsibilities do not include the negotiation or solicitation of insurance.

(2) Persons who secure and furnish information for the purpose of group or wholesale life insurance, or annuities, or group, blanket, or franchise health insurance, or for enrolling individuals under such plans or issuing certificates thereunder or otherwise assisting in administering such plans, where no commission is paid for such service.

(3) Employers or their officers or employees, or the trustees of any employee trust plan, to the extent that such employers, officers, employees, or trustees are engaged in the administration or operation of any program of employee benefits for their own employees or the employees of their subsidiaries or affiliates involving the use of insurance issued by a licensed insurance company, provided that such employers, officers, employees, or trustees are not in any manner compensated, directly or indirectly, by the insurance company issuing such insurance.

(h) An insurer shall require that a person who, on behalf of the insurer, makes any oral, written, or electronic communication with an individual regarding insurance coverage, rates, benefits, or policy terms, for the purpose of soliciting insurance shall be licensed under this chapter.

(i) A violation of subsection (h) is deemed an unfair method of competition and an unfair and deceptive act and practice in the business of insurance subject to the provisions of IC 27-4-1-4.

SECTION 3. IC 27-1-15.5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 7. Consultants. (a) No individual or corporation shall engage in the business of an insurance consultant until a license therefor has been issued to ~~him~~ **or it the individual or corporation** by the commissioner. However, no consultant license is required for the following:

- (1) Attorneys licensed to practice law in Indiana acting in their professional capacity.
- (2) A duly licensed insurance agent, or surplus lines insurance agent.
- (3) A trust officer of a bank acting in the normal course of his employment.
- (4) An actuary or a certified public accountant who provides

information, recommendations, advice, or services in his professional capacity.

(b) An application for a license to act as an insurance consultant shall be made to the commissioner on forms prescribed by the commissioner. An applicant may limit the scope of his consulting services by so stating on his application. Areas of allowable consulting services shall be:

(1) Class I, consulting regarding the kinds of insurance specified in IC 27-1-5-1 as Class I; and

(2) Class II and Class III, consulting regarding the kinds of insurance specified in IC 27-1-5-1 as Class II and Class III.

Within a reasonable time after receipt of a properly completed application form, the commissioner shall hold a written examination for the applicant limited to the type of consulting services designated by the applicant, and may conduct investigations and propound interrogatories concerning the applicant's qualifications, residence, business affiliations and any other matter which he deems necessary or advisable to determine compliance with this chapter or for the protection of the public.

(c) Consultants shall provide their services as outlined in a written agreement. ~~the form of which shall be approved by the commissioner.~~ The agreement shall be signed by and a copy provided to the person receiving services before any services are performed. The agreement must outline the nature of the work to be performed by the consultant, the method of compensation of the consultant and shall be retained by the consultant for not less than two (2) years after completion of the services. A copy of the agreement shall be available to the commissioner. In the absence of an agreement on the consultant's fee, the consultant shall not be entitled to recover a fee in any action at law or in equity. **For purposes of this subsection, "consultant's fee" does not include a late fee charged under section 25(e) of this chapter or fees otherwise allowed by law.**

(d) No individual or corporation may concurrently hold a consultant's license and an insurance agent's, surplus lines insurance agent's, or limited insurance representative's license at any time.

(e) No licensed consultant may employ, be employed by, or be in partnership with, nor receive any remuneration whatsoever, from any licensed insurance agent, surplus lines insurance agent, or limited

insurance representative, or insurer, except that a consultant may be compensated by an insurer for providing consulting services to the insurer.

(f) Such license shall be valid for not longer than twenty-four (24) months and may be renewed and extended in the same manner as an insurance agent's license. The commissioner shall designate on the license those consulting services which the licensee is entitled to perform.

(g) All requirements and standards relating to the denial, revocation or suspension of an insurance agent's license, including penalties, shall apply to the denial, revocation and suspension of an insurance consultant's license as nearly as practicable.

(h) A consultant is obligated under his license to serve with objectivity and complete loyalty solely the insurance interests of his client and to render his client such information, counsel, and service as within the knowledge, understanding, and opinion, in good faith of the licensee, best serves the client's insurance needs and interests.

(i) Except as provided in subsection (j), the form of a written agreement under subsection (c) must be filed with the commissioner not less than thirty (30) days before the form is used. If the commissioner does not approve the form within thirty (30) days after filing, the form is considered approved. At any time after notice and for cause shown, the commissioner may withdraw approval of a form effective thirty (30) days after the commissioner issues notice that the approval is withdrawn.

(j) Subsection (i) does not apply to the form of a written agreement under subsection (c) that is executed by an insurance agent and an exempt commercial policyholder (as defined in IC 27-1-22-2.5).

SECTION 4. IC 27-1-15.5-7.1, AS AMENDED BY P.L.268-1999, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 7.1. (a) This section does not apply to:

- (1) a nonresident licensee that:
 - (A) is licensed as a resident insurance agent by another state that has a continuing education requirement as a condition for license renewals; and
 - (B) meets all the requirements for licensure in the resident state of the nonresident licensee; or

(2) a person who is issued a limited insurance representative's license without examination under section 3(a)(1) or 3(a)(2) of this chapter; or

(3) a limited insurance representative who only negotiates or solicits credit life insurance or credit disability insurance.

(b) To renew a license issued under this chapter:

(1) an insurance agent (as defined in section 2(b) of this chapter) must complete at least ~~thirty (30)~~ **forty (40)** hours of credit in continuing education courses; and

(2) a limited insurance representative (as defined in section 2(e) of this chapter) must complete at least ten (10) hours of credit in continuing education.

An attorney in good standing who is admitted to the practice of law in Indiana and holds a license issued under this chapter may complete all or any number of hours of continuing education required by this subsection by completing an equivalent number of hours in continuing legal education courses that are related to the business of insurance.

(c) To satisfy the requirements of subsection (b), a licensee may use only those credit hours earned in continuing education courses completed by the licensee:

(1) after the date on which the licensee last renewed a license under this chapter; or

(2) if the licensee is renewing a license for the first time, after the date on which the licensee was issued the license under this chapter.

(d) If an insurance agent (as defined in section 2(b) of this chapter) holds more than one (1) license under this chapter, the licensee may not be required to complete a total of more than ~~thirty (30)~~ **forty (40)** hours of credit in continuing education courses to renew all of the licenses.

(e) A licensee may receive credit only for completing continuing education courses that have been approved by the commissioner under section 7.3 of this chapter.

(f) A licensee who teaches a course approved by the commissioner under section 7.3 of this chapter may receive continuing education credit for teaching the course.

(g) When a licensee renews a license issued under this chapter, the licensee must submit:

(1) a continuing education statement that:

- (A) is on a form provided by the commissioner;
 - (B) is signed by the licensee under oath; and
 - (C) lists the continuing education courses completed by the licensee to satisfy the continuing education requirements under this section; and
- (2) any other information required by the commissioner.
- (h) A continuing education statement submitted under subsection (g) may be reviewed and audited by the department of insurance.
- (i) A licensee shall retain a copy of the original certificate of completion received by the licensee for completion of a continuing education course.
- (j) The commissioner may adopt rules under IC 4-22-2 to implement this section.

SECTION 5. IC 27-1-15.5-7.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 7.7. (a) The commissioner shall adopt rules under IC 4-22-2 to establish a ~~biennial~~ license **renewal** fee from each licensee required to meet the requirements of section 7.1 of this chapter.

(b) The commissioner shall adopt rules under IC 4-22-2 to establish appropriate fees from licensees and providers of continuing education courses for the administration of the information required under sections 4 and 7.1 of this chapter. The fees collected under this subsection must produce sufficient revenue to pay the expenses incurred by the department of insurance in implementing this chapter and shall be deposited in the department of insurance fund established by IC 27-1-3-28.

SECTION 6. IC 27-1-15.5-25 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 25. (a) This section applies to commercial property and casualty insurance coverage described in Class 2 and Class 3 of IC 27-1-5-1.**

(b) A licensed insurance agent may charge a commercial insured a reasonable fee to reimburse the insurance agent for expenses incurred by the insurance agent at the specific request of the commercial insured, subject to the following requirements:

- (1) Before incurring any expense described in this subsection, the insurance agent shall provide written notice to the commercial insured stating that a fee will be charged and**

setting forth the:

(A) amount of the fee; or

(B) basis for calculating the fee.

(2) The amount of a fee and the basis for calculating a fee may not vary among commercial insureds.

(3) Any fee that is charged must be identified separately from premium and itemized in any bill provided to the commercial insured.

(c) A licensed insurance agent may charge a commercial insured a reasonable fee for services that are provided at the request of the commercial insured in connection with a policy for coverage described in subsection (a) and for which the insurance agent does not receive a commission or other compensation, subject to the following requirements:

(1) Before providing services, the insurance agent shall provide to the commercial insured a written description of the services to be provided and the fee for the services.

(2) Any fee that is charged must be identified separately from premium and itemized in any bill provided to the commercial insured.

(d) A licensed insurance agent who acts as a consultant and provides services described in this section shall comply with the requirements of this section and section 3.1 of this chapter.

(e) A licensed insurance agent may charge a late fee for agency billed accounts or policies that are more than thirty (30) days delinquent. A late fee may not exceed one and three quarters percent (1.75%) per month of the amount due on the due date.

SECTION 7. [EFFECTIVE JANUARY 1, 2001] (a) IC 27-1-15.5-3, IC 27-1-15.5-7.1, and IC 27-1-15.5-7.7, all as amended by this act, apply to a license that is renewed or issued after December 31, 2000.

(b) An individual or entity who:

(1) is licensed under IC 27-1-15.5; and

(2) voluntarily surrenders the license before January 1, 2003; may not renew the license or obtain a new license before the expiration date of the license that the individual or entity surrendered.

(c) Until the commissioner adopts rules to establish a license renewal fee under IC 27-1-15.5-7.7, as amended by this act, the

license renewal fee for a license renewed or issued after December 31, 2000, is two (2) times the fee that was charged for the license on December 31, 2000, if the license renewal period for the license was two (2) years.

(d) This SECTION expires December 31, 2003.

P.L.49-2000

[H.1228. Approved March 15, 2000.]

AN ACT to amend the Indiana Code concerning local government.

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

SECTION 1. IC 36-4-3-2.1, AS AMENDED BY P.L.248-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 2.1. (a) A municipality may adopt an ordinance under this chapter only after the legislative body has held a public hearing concerning the proposed annexation. The municipality shall hold the public hearing not earlier than sixty (60) days after the date the ordinance is introduced. All interested parties must have the opportunity to testify as to the proposed annexation. **Except as provided in subsection (c),** notice of the hearing shall be:

- (1) published in accordance with IC 5-3-1 except that the notice shall be published at least sixty (60) days before the hearing; and
- (2) mailed as set forth in section 2.2 of this chapter, if section 2.2 of this chapter applies to the annexation.

(b) A municipality may adopt an ordinance under this chapter not earlier than thirty (30) days or not later than sixty (60) days after the legislative body has held the public hearing under subsection (a).

(c) This subsection applies to an annexation under section 3 or 4 of this chapter in which all property owners within the area to be annexed provide written consent to the annexation. Notice of the hearing shall be:

- (1) published one (1) time at least twenty (20) days before the hearing in accordance with IC 5-3-1; and**

(2) mailed as set forth in section 2.2 of this chapter.

SECTION 2. IC 36-4-3-2.2, AS ADDED BY P.L.217-1999, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 2.2. (a) This section does not apply to an annexation under section 4(a)(2), 4(a)(3), 4(b), 4(h), or 4.1 of this chapter.

(b) Before a municipality may annex territory, the municipality shall provide written notice of the hearing required under section 2.1 of this chapter. **Except as provided in subsection (e)**, the notice must be sent by certified mail at least sixty (60) days before the date of the hearing to each owner of real property, as shown on the county auditor's current tax list, whose real property is located within the territory proposed to be annexed.

(c) The notice required by this section must include the following:

- (1) A legal description of the real property proposed to be annexed.
- (2) The date, time, location, and subject of the hearing.
- (3) A map showing the current municipal boundaries and the proposed municipal boundaries.
- (4) Current zoning classifications for the area proposed to be annexed and any proposed zoning changes for the area proposed to be annexed.
- (5) A detailed summary of the fiscal plan described in section 13 of this chapter.
- (6) The location where the public may inspect and copy the fiscal plan.
- (7) A statement that the municipality will provide a copy of the fiscal plan after the fiscal plan is adopted immediately to any landowner in the annexed territory who requests a copy.
- (8) The name and telephone number of a representative of the municipality who may be contacted for further information.

(d) If the municipality complies with this section, the notice is not invalidated if the owner does not receive the notice.

(e) This subsection applies to an annexation under section 3 or 4 of this chapter in which all property owners within the area to be annexed provide written consent to the annexation. The written notice described in this section must be sent by certified mail not later than twenty (20) days before the date of the hearing to each

owner of real property, as shown on the county auditor's current tax list, whose real property is located within the territory proposed to be annexed.

P.L.50-2000

[H.1241. Approved March 15, 2000.]

AN ACT to amend the Indiana Code concerning state and local administration.

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

SECTION 1. IC 5-10-8-1, AS AMENDED BY P.L.233-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1. The following definitions apply in this chapter:

(1) "Employee" means:

(A) an elected or appointed officer or official, or a full-time employee;

(B) if the individual is employed by a school corporation, a full-time or part-time employee;

(C) for a local unit public employer, a full-time or part-time employee or a person who provides personal services to the unit under contract during the contract period; or

(D) a senior judge appointed under IC 33-2-1-8;

whose services have continued without interruption at least thirty (30) days.

(2) "Group insurance" means any of the kinds of insurance fulfilling the definitions and requirements of group insurance contained in IC 27-1.

(3) "Insurance" means insurance upon or in relation to human life in all its forms, including life insurance, health insurance, disability insurance, accident insurance, hospitalization insurance, surgery insurance, medical insurance, and supplemental medical insurance.

(4) "Local unit" includes a city, town, county, township, **public**

library, or school corporation.

(5) "New traditional plan" means a self-insurance program established under section 7(b) of this chapter to provide health care coverage.

(6) "Public employer" means the state or a local unit, including any board, commission, department, division, authority, institution, establishment, facility, or governmental unit under the supervision of either, having a payroll in relation to persons it immediately employs, even if it is not a separate taxing unit.

(7) "Public employer" does not include a state educational institution (as defined under IC 20-12-0.5-1).

(8) "Retired employee" means:

(A) in the case of a public employer that participates in the public employees' retirement fund, a former employee who qualifies for a benefit under IC 5-10.3-8;

(B) in the case of a public employer that participates in the teachers' retirement fund under IC 21-6.1, a former employee who qualifies for a benefit under IC 21-6.1-5; and

(C) in the case of any other public employer, a former employee who meets the requirements established by the public employer for participation in a group insurance plan for retired employees.

(9) "Retirement date" means the date that the employee has chosen to receive retirement benefits from the employees' retirement fund.

SECTION 2. IC 5-11-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 4. (a) The state examiner shall require from every municipality and every state or local governmental unit, entity, or instrumentality financial reports covering the full period of each fiscal year. Except as provided by subsection (b), these reports shall be prepared, verified, and filed with the state examiner within thirty (30) days after the close of each fiscal year.

(b) ~~A municipal government~~ **The following** shall prepare, verify, and file the reports required under subsection (a) not later than sixty (60) days after the end of each year:

(1) A municipal government.

(2) A public library.

SECTION 3. IC 6-1.1-29-4 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 4. Each county board of tax adjustment, except the board for a consolidated city and county and for a county containing a second class city, shall hold its first meeting of each year on September ~~18~~ **22** or on the first business day after September ~~18~~, **22**, if September ~~18~~ **22** is not a business day. The board for a consolidated city and county and for a county containing a second class city shall hold its first meeting of each year on the first Wednesday following the adoption of city and county budget, tax rate, and tax levy ordinances. The board shall hold the first meeting at the office of the county auditor. At the first meeting of each year, the board shall elect a chairman and a vice-chairman. After the first meeting, the board shall continue to meet from day to day until its business is completed. However, the board must complete its duties on or before the date prescribed in IC 6-1.1-17-9(a). After the first meeting, the board may hold subsequent meetings at any convenient place.

SECTION 4. IC 20-14-2.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 4. **Except as provided in section 9.5 of this chapter, and** subject to section 10 of this chapter, seven (7) members of a library board shall be appointed as follows:

- (1) One (1) member appointed by the executive of the county in which the library district is located, or if the district is located in more than one (1) county, jointly by the executives of the respective counties.
- (2) One (1) member appointed by the fiscal body of the county in which the library district is located, or if the district is located in more than one (1) county, jointly by the fiscal bodies of the respective counties.
- (3) Three (3) members appointed by the school board of the school corporation serving the library district. However, if there is more than one (1) school corporation serving the library district:
 - (A) two (2) members shall be appointed by the school board of the school corporation in which the principal offices of the public library are located; and
 - (B) one (1) member shall be appointed by a majority vote of the presidents of the school boards of the other school corporations.
- (4) One (1) member appointed under section 5(1), 6(b)(1), 7(1),

8(1), or 9(1), of this chapter, as applicable.

(5) One (1) member appointed under section 5(2), 6(b)(2), 7(2), 8(2), or 9(2) of this chapter, as applicable.

SECTION 5. IC 20-14-2.5-9.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 9.5. (a) This section applies to the library board of a library district:**

(1) located in a county having a population of more than forty-five thousand (45,000) but less than forty-seven thousand (47,000); and

(2) containing all or part of the territory of each school corporation in the county.

(b) Notwithstanding section 4 of this chapter, the library board has the following members:

(1) One (1) member appointed by the executive of the county in which the library district is located and who is not a member of the county executive.

(2) One (1) member appointed by the fiscal body of the county in which the library district is located and who is not a member of the county fiscal body.

(3) One (1) member appointed by the legislative body of the most populous city in the library district and who is not a member of the city legislative body.

(4) One (1) member appointed by the school board of each school corporation having territory in the library district and who is not a member of a governing body of a school corporation.

(c) A person who is appointed under subsection (b) to serve as a member of a library board must before March 1 of each year report to the member's appointing authority concerning the work of the library board and finances of the library during the prior calendar year, including the rate of taxation determined under IC 20-14-3-10.

SECTION 6. IC 20-14-2.5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 12. (a) Subject to subsection (b), the term of a library board member is four (4) years. A member may continue to serve on a library board after his term has expired until his successor is qualified under section 13 of this chapter.**

The term of the member's successor is not extended by the time that has elapsed before the successor's appointment and qualification. If a member is appointed to fill a vacancy on a library board, his term is the unexpired term of the member being replaced.

(b) **Except for a library board whose membership is established under section 9.5 of this chapter**, for the purposes of establishing staggered terms for the members of a library board, the initial members shall serve the following terms:

- (1) One (1) year for one (1) member appointed under section 4(1), 4(5), 10(b)(1), 10(b)(2), or 11(1) of this chapter.
- (2) Two (2) years for one (1) member appointed under section 4(3)(A), 4(4), 10(b)(3), 10(b)(4), or 11(2) of this chapter.
- (3) Three (3) years for one (1) member appointed under section 4(2), 4(3)(A), 10(b)(4), 10(b)(5), or 11(1) of this chapter.
- (4) Four (4) years for one (1) member appointed under section 4(3)(B), 10(b)(6), or 11(2) of this chapter.

(c) When an appointing authority appoints members to terms of different length under subsection (b), he shall designate which appointee serves each term.

SECTION 7. [EFFECTIVE JULY 1, 2000] (a) This SECTION applies to a library district subject to IC 20-14-2.5-9.5, as added by this act.

(b) This SECTION provides the procedure for the transition to a library board with membership appointed under IC 20-14-2.5-9.5, as added by this act.

(c) Notwithstanding IC 20-14-2.5-9.5, as added by this act, each member of the library board who was appointed before July 1, 2000, may continue to serve on the library board until the normal expiration of the member's term. However, upon the expiration of a member's term, the vacancy shall be filled by appointment as follows:

- (1) When the term of a member appointed by the executive of a county expires, the vacancy shall be filled by appointment under IC 20-14-2.5-9.5(b)(1), as added by this act.**
- (2) When the term of a member appointed by the fiscal body of a county expires, the vacancy shall be filled by appointment under IC 20-14-2.5-9.5(b)(2), as added by this act.**
- (3) When the term of a member appointed by the executive of**

a municipality expires, the vacancy shall be filled by appointment under IC 20-14-2.5-9.5(b)(3), as added by this act.

(4) When the term of a member appointed by the legislative body of a municipality expires, the vacancy shall be filled by appointment under IC 20-14-2.5-9.5(b)(4), as added by this act, by the school board of the school corporation in the library district having the second greatest number of students in average daily membership (as defined in IC 21-3-1.6-1.1).

(5) When the term of the first of the three (3) members appointed by a school board expires, the vacancy shall be filled by appointment under IC 20-14-2.5-9.5(b)(4), as added by this act, by the school board of the school corporation in the library district having the third greatest number of students in average daily membership (as defined in IC 21-3-1.6-1.1).

(6) When the term of the second of the three (3) members appointed by a school board expires, the vacancy shall be filled by appointment under IC 20-14-2.5-9.5(b)(4), as added by this act, by the school board of the school corporation in the library district having the fourth greatest number of students in average daily membership (as defined in IC 21-3-1.6-1.1).

(7) When the term of the last of the three (3) members appointed by a school board expires, the vacancy shall be filled by appointment under IC 20-14-2.5-9.5(b)(4), as added by this act, by the school board of the school corporation in the library district having the greatest number of students in average daily membership (as defined in IC 21-3-1.6-1.1).

(d) This SECTION expires December 31, 2005.

SECTION 8. IC 20-14-3-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 10. (a) The library board shall determine the rate of taxation for the library district that is necessary for the proper operation of the library. The library board shall certify the rate to the county auditor, and the county auditor shall certify the tax rate to the county tax adjustment board in the manner provided in IC 6-1.1. An additional rate may be levied under section 8(5) of this chapter.

(b) If the library board fails to:

(1) give:

(A) a first published notice to its taxpayers of its proposed budget and tax levy for the ensuing year at least ~~twenty-one~~ ~~(21)~~ ten (10) days before the second Monday in September; public hearing required under IC 6-1.1-17-3; and

(B) a second published notice to its taxpayers of its proposed budget and tax levy for the ensuing year at least three (3) days before the public hearing required under IC 6-1.1-17-3; or

(2) finally adopt the budget and fix the tax levy ~~at least two (2) days before the second Monday in September; not later than September 20;~~

then the last preceding annual appropriation made for the public library is renewed for the ensuing year, and the last preceding annual tax levy is continued. In this case, the treasurer of the library board shall report the continued tax levy to the county auditor, ~~no not later than two (2) days before the second Monday in September. September 20.~~



P.L.51-2000

[H.1267. Approved March 15, 2000.]

AN ACT to amend the Indiana Code concerning transportation.

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

SECTION 1. IC 20-9.1-4-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: **Sec. 4.5. (a) As used in this section, "committee" refers to the state school bus committee created by this chapter.**

(b) The committee shall adopt and enforce rules under IC 4-22-2 to require that each new school bus operated by or on behalf of a school corporation bear:

(1) the name of the school district on the top of the school bus; and

**(2) the number of the school district on the back of the school bus;
in black letters that are between four (4) inches and six (6) inches high.**

P.L.52-2000

[H.1271. Approved March 15, 2000.]

AN ACT to amend the Indiana Code concerning higher education financial assistance.

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

SECTION 1. IC 20-12-19-1, AS AMENDED BY P.L.37-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE AUGUST 1, 2000]: Sec. 1. (a) **As used in this section, "state educational institution" has the meaning set forth in IC 20-12-0.5-1.**

(b) This section applies to the following persons:

(1) A person who:

- (A) is a pupil at the Soldiers' and Sailors' Children's Home;
- (B) was admitted to the Soldiers' and Sailors' Children's Home because the person was related to a member of the armed forces of the United States;
- (C) is eligible to pay the resident tuition rate at the ~~college or university~~ **state educational institution** the person will attend as determined by the ~~college or university~~; **institution**; and
- (D) possesses the requisite academic qualifications.

(2) A person:

- (A) whose mother or father:
 - (i) served in the armed forces of the United States;
 - (ii) received the Purple Heart decoration or was wounded as a result of enemy action; and
 - (iii) received a discharge or separation from the armed forces other than a dishonorable discharge;

(B) who is eligible to pay the resident tuition rate at the ~~college or university~~ **state educational institution** the person will attend as determined by the ~~college or university;~~ **institution;** and

(C) who possesses the requisite academic qualifications.

(3) A person:

(A) whose mother or father:

(i) served before July 1, 1999, in the armed forces of the United States during any war or performed duty equally hazardous that was recognized by the award of a service or campaign medal of the United States;

(ii) suffered a service connected death or disability as determined by the United States Department of Veterans Affairs; and

(iii) received any discharge or separation from the armed forces other than a dishonorable discharge;

(B) who is eligible to pay the resident tuition rate at the ~~college or university~~ **state educational institution** the person will attend, as determined by the ~~college or university;~~ **institution;** and

(C) who possesses the requisite academic qualifications.

~~(b)~~ **(c) Beginning with the semester or term that begins in the fall of 2000**, a person described in subsection ~~(a)~~ **(b)** is entitled to enter, remain, and receive instruction in ~~Indiana University, Purdue University, Indiana State University, Ball State University, Ivy Tech State College, University of Southern Indiana, Vincennes University,~~ and their extension centers throughout Indiana, **a state educational institution** upon the same conditions, qualifications, and regulations prescribed for other applicants for admission to or scholars in the **state** educational institutions, without the payment of any **tuition or mandatory** fees paid into the general fund of the ~~colleges or universities,~~ for one hundred twenty-four (124) semester credit hours in the ~~institution of higher learning;~~ **state educational institution. For purposes of this chapter, the commission for higher education of the state of Indiana (IC 20-12-0.5-2) shall define mandatory fees in consultation with the state student assistance commission (IC 20-12-21-4).**

~~(e)~~ **(d)** If an applicant:

(1) is permitted to matriculate in the state ~~institutions of higher learning;~~ **educational institution;**
 (2) shall qualify under this chapter; and
 (3) shall have earned or been awarded a cash scholarship which is paid or payable to such institution, from whatsoever source; the amount paid shall be applied to the credit of such applicant in the payment of incidental expenses of the applicant's attendance at the institution, and any balance, if the terms of the scholarship permit, shall be returned to such applicant.

~~(d)~~ **(e)** Determination of eligibility for higher education benefits authorized under this section is vested exclusively in the Indiana department of veterans' affairs. Any applicant for these benefits may make a written request for a determination of eligibility by the Indiana department of veterans' affairs. The director or deputy director of the department shall make a written determination of eligibility in response to each request. **In determining the amount of an individual's benefit, the state student assistance commission shall consider other higher education financial assistance as provided in section 2 of this chapter.**

~~(e)~~ **(f)** An appeal from an adverse determination shall be made in writing to the veterans' affairs commission not more than fifteen (15) working days following the applicant's receipt of the determination. A final order shall be made by a simple majority of the veterans' affairs commission not more than fifteen (15) days following receipt of the written appeal.

~~(f)~~ **(g)** A person who knowingly or intentionally submits a false or misleading application or other document under this section commits a Class A misdemeanor.

SECTION 2. IC 20-12-19-2 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE AUGUST 1, 2000]: **Sec. 2. The amount of the benefits under this chapter is equal to one (1) of the following amounts:**

(1) If the applicant does not receive financial assistance specifically designated for tuition and mandatory fees, the amount determined under section 1 of this chapter.

(2) If the applicant receives financial assistance specifically designated for tuition and mandatory fees:

(A) the amount determined under section 1 of this chapter;

minus**(B) the financial assistance specifically designated for tuition and mandatory fees.**

SECTION 3. IC 20-12-19.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE AUGUST 1, 2000]: Sec. 1. (a) The children of:

- (1) regular, paid law enforcement officers;
- (2) regular, paid firefighters;
- (3) volunteer firefighters under IC 36-8-12-2;
- (4) county police reserve officers; or
- (5) city police reserve officers;

who have been killed in the line of duty shall not be required to pay tuition or ~~other required~~ **mandatory** fees at any state supported college, university, or technical school, so long as the children are under the age of twenty-three (23) and are full-time students pursuing a prescribed course of study.

(b) The surviving spouse of a:

- (1) regular, paid law enforcement officer;
- (2) regular, paid firefighter;
- (3) volunteer firefighter under IC 36-8-12-2;
- (4) county police reserve officer; or
- (5) city police reserve officer;

who has been killed in the line of duty may not be required to pay tuition or ~~other required~~ **mandatory** fees at any state supported college, university, or technical school, so long as the surviving spouse is pursuing a prescribed course of study at the institution towards an undergraduate degree.

(c) This section applies to the children and surviving spouse of a:

- (1) regular, paid law enforcement officer;
- (2) regular, paid firefighter;
- (3) volunteer firefighter under IC 36-8-12-2;
- (4) county police reserve officer; or
- (5) city police reserve officer;

if the public safety officer described in this subsection was killed in the line of duty before, on, or after July 1, 1993.

SECTION 4. IC 20-12-19.5-2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE AUGUST 1, 2000]: **Sec. 2. The amount of the benefits**

under this chapter is equal to one (1) of the following amounts:

(1) If the applicant does not receive financial assistance specifically designated for tuition and mandatory fees, the amount determined under section 1 of this chapter.

(2) If the applicant receives financial assistance specifically designated for tuition and mandatory fees:

(A) the amount determined under section 1 of this chapter; minus

(B) the financial assistance specifically designated for tuition and mandatory fees.

SECTION 5. IC 20-12-74-7, AS ADDED BY P.L.186-1999, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 7. (a) Money in the national guard tuition supplement program fund shall be used to provide annual tuition scholarships to scholarship applicants who qualify under this chapter in an amount that is equal to one (1) of the following amounts:

(1) If the scholarship applicant does not receive other financial assistance specifically designated for tuition and ~~other regularly assessed~~ **mandatory** fees, the amount equal to a full tuition scholarship to attend the state educational institution.

(2) If the scholarship applicant receives other financial assistance specifically designated for tuition and ~~other regularly assessed~~ **mandatory** fees, the amount:

(A) equal to the balance required to attend the state educational institution; and

(B) not to exceed the amount described in subdivision (1).

(b) Each tuition scholarship awarded under this chapter:

(1) may be renewed under this chapter for a total scholarship award that does not exceed the equivalent of eight (8) semesters; and

(2) that is renewable under this chapter is subject to other eligibility criteria as established by the commission.

SECTION 6. [EFFECTIVE AUGUST 1, 2000] **IC 20-12-19-1, as added by this act, applies to a student enrolled at a state educational institution after July 31, 2000.**

SECTION 7. [EFFECTIVE AUGUST 1, 2000] **IC 20-12-19-2, IC 20-12-19.5-1, IC 20-12-19.5-2, and IC 20-12-74-7, all as amended or added by this act, apply to a student enrolled at a state**

educational institution after July 31, 2000.

P.L.53-2000

[H.1283. Approved March 15, 2000.]

AN ACT to amend the Indiana Code concerning pensions.

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

SECTION 1. IC 5-10.2-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 2. (a) Subject to IC 5-10.2-2-1.5, as used in this section, "compensation" means:

- (1) the basic salary earned by and paid to the member; plus
- (2) the amount that would have been a part of the basic salary earned and paid except for the member's salary reduction agreement established under Section 125, 403(b), or 457 of the Internal Revenue Code.

(b) Except in cases where the contribution is made on behalf of the member, each member shall, as a condition of employment, contribute to the fund three percent (3%) of his compensation.

(c) **A member of a fund may make contributions to the member's annuity savings account in addition to the contributions required under subsection (b). The total amount contributed by a member (including any amounts contributed on behalf of the member) may not exceed ten percent (10%) of the member's compensation.**

(d) **In compliance with rules adopted by each board, an employer, under Section 414(h)(2) of the Internal Revenue Code, may pick-up and pay the contributions under subsection (c), subject to approval of the board and to the board's receipt of a favorable private letter ruling from the Internal Revenue Service. The employer shall reduce the member's compensation by an amount equal to the amount of the member's contributions under subsection (c) that are picked-up by the employer. Each board shall by rule establish the procedural requirements for employers to**

carry out the pick-up in compliance with Section 414(h)(2) of the Internal Revenue Code.

(e) A member's contributions and interest credits belong to the member and do not belong to the state or political subdivision.



P.L.54-2000

[H.1293. Approved March 15, 2000.]

AN ACT to amend the Indiana Code concerning insurance.

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

SECTION 1. IC 5-10-8-7.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 7.8. (a) As used in this section, "covered individual" means an individual who is:**

(1) covered under a self-insurance program established under section 7(b) of this chapter to provide group health coverage;

or

(2) entitled to services under a contract with a health maintenance organization (as defined in IC 27-13-1-19) that is entered into or renewed under section 7(c) of this chapter.

(b) A:

(1) self-insurance program established under section 7(b) of this chapter to provide health care coverage; or

(2) contract with a health maintenance organization that is entered into or renewed under section 7(c) of this chapter;

must provide coverage for colorectal cancer examinations and laboratory tests for cancer for any nonsymptomatic covered individual, in accordance with the current American Cancer Society guidelines.

(c) For a covered individual who is:

(1) at least fifty (50) years of age; or

(2) less than fifty (50) years of age and at high risk for colorectal cancer according to the most recent published

guidelines of the American Cancer Society; the coverage required under this section must meet the requirements set forth in subsection (d).

(d) A covered individual may not be required to pay an additional deductible or coinsurance for the colorectal cancer examination and laboratory testing benefit that is greater than an annual deductible or coinsurance established for similar benefits under a self-insurance program or contract with a health maintenance organization. If the program or contract does not cover a similar benefit, a deductible or coinsurance may not be set at a level that materially diminishes the value of the colorectal cancer examination and laboratory testing benefit required under this section.

SECTION 2. IC 27-8-14.8 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]:

Chapter 14.8. Coverage for Services Related to Colorectal Cancer Screening

Sec. 1. (a) As used in this chapter, "accident and sickness insurance policy" means an insurance policy that:

- (1) provides at least one (1) of the types of insurance described in IC 27-1-5-1, Classes 1(b) and 2(a); and**
- (2) is issued on a group basis.**

(b) "Accident and sickness insurance policy" does not include a policy providing accident only, credit, dental, vision, Medicare supplement, long-term care, or disability income insurance.

Sec. 2. As used in this chapter, "insured" means an individual who is entitled to coverage under an accident and sickness insurance policy.

Sec. 3. (a) Except as provided in subsection (d), an insurer shall provide coverage for colorectal cancer examinations and laboratory tests for cancer for any nonsymptomatic insured, in accordance with the current American Cancer Society guidelines, in any accident and sickness insurance policy that the insurer issues in Indiana or issues for delivery in Indiana.

(b) For an insured who is:

- (1) at least fifty (50) years of age; or**
- (2) less than fifty (50) years of age and at high risk for colorectal cancer according to the most recent published**

guidelines of the American Cancer Society; the coverage required under this section must meet the requirements set forth in subsection (c).

(c) An insured may not be required to pay an additional annual deductible or coinsurance for the colorectal cancer examination and laboratory testing benefit that is greater than an annual deductible or coinsurance established for similar benefits under an accident and sickness insurance policy. If the accident and sickness insurance policy does not cover a similar benefit, a deductible or coinsurance may not be set at a level that materially diminishes the value of the colorectal cancer examination and laboratory testing benefit required under this section.

(d) In the case of an accident and sickness insurance policy that is not employer based, the insurer shall offer to provide the coverage described in this section.

SECTION 3. IC 27-13-7-17 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 17. (a) As used in this section, "colorectal cancer testing" means examinations and laboratory tests for cancer for any nonsymptomatic enrollee, in accordance with the current American Cancer Society guidelines.**

(b) Except as provided in subsection (e), a health maintenance organization issued a certificate of authority in Indiana shall provide colorectal cancer testing as a covered service under every group contract that provides coverage for basic health care services.

(c) For an enrollee who is:

- (1) at least fifty (50) years of age; or**
- (2) less than fifty (50) years of age and at high risk for colorectal cancer according to the most recent published guidelines of the American Cancer Society;**

the colorectal cancer testing required under this section must meet the requirements set forth in subsection (d).

(d) An enrollee may not be required to pay a copayment for the colorectal cancer examination and laboratory testing benefit that is greater than a copayment established for similar benefits under a group contract. If the group contract does not cover a similar covered service, the copayment may not be set at a level that materially diminishes the value of the colorectal cancer

examination and laboratory testing benefit required under this section.

(e) In the case of coverage that is not employer based, the health maintenance organization is required only to offer to provide the colorectal cancer testing described in subsections (b) through (f) as a covered service under a proposed group contract providing coverage for basic health care services.

SECTION 4. [EFFECTIVE JULY 1, 2000] (a) IC 5-10-8-7.8, as added by this act, applies to a self-insurance program or a contract between the state and a health maintenance organization established, entered into, amended, or renewed after June 30, 2000.

(b) IC 27-8-14.8, as added by this act, applies to accident and sickness insurance policies that are issued, delivered, amended, or renewed after June 30, 2000.

(c) IC 27-13-7-17, as added by this act, applies to health maintenance organization contracts that are entered into, amended, or renewed after June 30, 2000.

(d) This SECTION expires July 1, 2004.

P.L.55-2000

[H.1295. Approved March 15, 2000.]

AN ACT to amend the Indiana Code concerning state and local administration.

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

SECTION 1. IC 5-2-6.1-35 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 35. (a) An award to a claimant under this chapter:

- (1) may not exceed ~~ten~~ **fifteen** thousand dollars (~~\$10,000~~); **(\$15,000)**; and
- (2) may not cover the first one hundred dollars (\$100) of the claim.

(b) The part of an award covering an unpaid bill shall be made

payable jointly to the claimant and to the creditor on that bill.

P.L.56-2000
[H.1297. Approved March 15, 2000.]

AN ACT to amend the Indiana Code concerning state and local administration.

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

SECTION 1. IC 5-2-5-14 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 14. Pursuant to Public Law 92-544 (86 Stat. 1115), a local law enforcement agency may use fingerprints submitted for the purpose of identification in a request related to:**

- (1) a taxicab driver's license application;**
- (2) an application for license for massage therapist; or**
- (3) reinstatement or renewal of the same license.**

An applicant shall submit the fingerprints on forms provided for the license application. The local law enforcement agency shall charge each applicant the fees set by the state police department and federal authorities to defray the costs associated with a search for and classification of the applicant's fingerprints. The local law enforcement agency may forward for processing to the Federal Bureau of Investigation or any other agency fingerprints submitted by a license applicant. The local law enforcement agency may receive the results of all fingerprint investigations.

P.L.57-2000

[H.1326. Approved March 15, 2000.]

AN ACT concerning commercial law.

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

SECTION 1. IC 4-22-2-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 13. (a) Subject to subsections (b), (c), and (d), this chapter applies to the addition, amendment, or repeal of a rule in every rulemaking action.

(b) This chapter does not apply to the following agencies:

- (1) Any military officer or board.
- (2) Any state educational institution (as defined in IC 20-12-0.5-1).

(c) This chapter does not apply to a rulemaking action that results in any of the following rules:

- (1) A resolution or directive of any agency that relates solely to internal policy, internal agency organization, or internal procedure and does not have the effect of law.
- (2) A restriction or traffic control determination of a purely local nature that:
 - (A) is ordered by the commissioner of the Indiana department of transportation;
 - (B) is adopted under IC 9-20-1-3(d), IC 9-21-4-7, or IC 9-20-7; and
 - (C) applies only to one (1) or more particularly described intersections, highway portions, bridge causeways, or viaduct areas.

(3) A rule adopted by the secretary of state under ~~IC 26-1-9-408~~.
IC 26-1-9.1-526.

(4) An executive order or proclamation issued by the governor.

(d) Except as specifically set forth in IC 13-14-9, sections 24, 26, 27, and 29 of this chapter do not apply to rulemaking actions under IC 13-14-9.

SECTION 2. IC 6-8.1-3-16 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 16. (a) The department shall prepare a list of all outstanding tax warrants for listed taxes each month. The list shall identify each taxpayer liable for a warrant by name, address, amount of tax, and either Social Security number or employer identification number. Unless the department renews the warrant, the department shall exclude from the list a warrant issued more than ten (10) years before the date of the list. The department shall certify a copy of the list to the bureau of motor vehicles.

(b) The department shall prescribe and furnish tax release forms for use by tax collecting officials. A tax collecting official who collects taxes in satisfaction of an outstanding warrant shall issue to the taxpayers named on the warrant a tax release stating that the tax has been paid. The department may also issue a tax release:

- (1) to a taxpayer who has made arrangements satisfactory to the department for the payment of the tax; or
- (2) by action of the commissioner under IC 6-8.1-8-2(k).

(c) The department may not issue or renew:

- (1) a certificate under IC 6-2.5-8;
- (2) a license under IC 6-6-1.1 or IC 6-6-2.5; or
- (3) a permit under IC 6-6-4.1;

to a taxpayer whose name appears on the most recent monthly warrant list, unless that taxpayer pays the tax, makes arrangements satisfactory to the department for the payment of the tax, or a release is issued under IC 6-8.1-8-2(k).

(d) The bureau of motor vehicles shall, before issuing the title to a motor vehicle under IC 9-17, determine whether the purchaser's or assignee's name is on the most recent monthly warrant list. If the purchaser's or assignee's name is on the list, the bureau shall enter as a lien on the title the name of the state as the lienholder unless the bureau has received notice from the commissioner under IC 6-8.1-8-2(k). The tax lien on the title:

- (1) is subordinate to a perfected security interest (as defined and perfected in accordance with ~~IC 26-1-9~~; **IC 26-1-9.1**); and
- (2) shall otherwise be treated in the same manner as other title liens.

(e) The commissioner is the custodian of all titles for which the state is the sole lienholder under this section. Upon receipt of the title by the department, the commissioner shall notify the owner of the

department's receipt of the title.

(f) The department shall reimburse the bureau of motor vehicles for all costs incurred in carrying out this section.

(g) Notwithstanding IC 6-8.1-8, a person who is authorized to collect taxes, interest, or penalties on behalf of the department under IC 6-2.1, IC 6-3, or IC 6-3.5 may not, except as provided in subsection (h) or (i), receive a fee for collecting the taxes, interest, or penalties if:

(1) the taxpayer pays the taxes, interest, or penalties as consideration for the release of a lien placed under subsection (d) on a motor vehicle title; or

(2) the taxpayer has been denied a certificate or license under subsection (c) within sixty (60) days before the date the taxes, interest, or penalties are collected.

(h) In the case of a sheriff, subsection (g) does not apply if:

(1) the sheriff collects the taxes, interest, or penalties within sixty (60) days after the date the sheriff receives the tax warrant; or

(2) the sheriff collects the taxes, interest, or penalties through the sale or redemption, in a court proceeding, of a motor vehicle that has a lien placed on its title under subsection (d).

(i) In the case of a person other than a sheriff:

(1) subsection (g)(2) does not apply if the person collects the taxes, interests, or penalties within sixty (60) days after the date the commissioner employs the person to make the collection; and

(2) subsection (g)(1) does not apply if the person collects the taxes, interest, or penalties through the sale or redemption, in a court proceeding, of a motor vehicle that has a lien placed on its title under subsection (d).

SECTION 3. IC 8-1-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. (a) Notwithstanding any other statute or rule of law of the state, any mortgage executed and recorded by a public utility, as defined in IC 8-1-2-1, or by any corporation or other business entity engaged in the railroad business or the transmission of oil, gas, or petroleum products by pipeline, in the manner provided for the execution and recording of mortgages upon real estate:

(1) may include all or any part of the property of the mortgagor, real, personal, or mixed, chattels real and fixtures; and

(2) shall, upon its recordation, constitute a valid and perfected

lien upon all and every part of the property of the mortgagor described in the mortgage and situated in any county in this state where the mortgage is or shall be recorded in the manner provided for recording real estate mortgages. Neither the mortgage nor any statement respecting the mortgage or any of the property described in the mortgage need be otherwise filed or refiled in order to perfect or continue perfection of the lien created by the mortgage.

(b) The term "mortgage", as used in this chapter, includes deeds of trust and any and all documents creating an interest in property to secure the payment of bonds, notes, debentures, and like securities, and any instrument executed to supplement any mortgage.

(c) If it is executed and recorded as provided in this section and by its terms covers some or all of the after-acquired property of the mortgagor, the mortgage constitutes a valid and perfected lien upon the interest of the mortgagor in the after-acquired property from the date the mortgagor acquires an interest in the property.

(d) Notwithstanding the date of the mortgage's execution or recordation, if collateral covered by ~~IC 26-1-9~~ **IC 26-1-9.1** was or is perfected in compliance with the recordation requirements contained in this section, the recordation was or is equivalent to the highest form of filing or perfection under ~~IC 26-1-9~~ **IC 26-1-9.1**.

SECTION 4. IC 9-17-6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 6. Except as otherwise provided, ~~IC 26-1-9~~ **IC 26-1-9.1** applies to a security interest in a manufactured home.

SECTION 5. IC 9-31-2-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 24. (a) A security agreement covering a security interest in a watercraft that is not inventory held for sale can be perfected only if the bureau indicates the security interest on the certificate of title or duplicate. Except as otherwise provided in this section, ~~IC 26-1-9~~ **IC 26-1-9.1** applies to security interests in watercraft.

(b) The secured party, upon presentation of a properly completed application for certificate of title to the bureau together with the fee prescribed by IC 9-29-15-1, may have a notation of the lien made on the face of the certificate of title to be issued by the bureau. The bureau shall enter the notation and the date of the notation and shall note the

lien and the date of the lien in the bureau's files.

(c) Whenever a lien is discharged, the holder shall note the discharge on the certificate of title over the holder's signature.

SECTION 6. IC 12-17-2-33 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 33. (a) The bureau shall, each month, prepare a list of each person against whom a child support obligation lien is held under IC 31-16-16-3 (or IC 31-2-11-9 before its repeal). The list must identify each person liable for a lien by name, address, amount of lien, and either Social Security number or employer identification number. The bureau shall certify a copy of the list to the bureau of motor vehicles.

(b) The bureau of motor vehicles shall, before issuing the title to a motor vehicle under IC 9-17, determine whether the purchaser's or assignee's name is on the most recent monthly lien list. If the purchaser's or assignee's name is on the list, the bureau shall enter as a lien on the title the name of the state as the lienholder. The state's lien on a title under this section is subordinate to a prior perfected security interest if the interest is defined and perfected under either of the following:

(1) ~~IC 26-1-9~~; **IC 26-1-9.1**.

(2) IC 32-8.

(c) A lien against the title under this section must be treated in the same manner as any other subordinate title lien.

(d) The bureau shall prescribe and furnish release forms for use by the bureau. When the amount of the lien is paid, the bureau shall issue to the person against whom the lien was held a release stating that the amount represented by the lien has been paid. The bureau may also issue a release to a person against whom the lien is held if the person has made arrangements, agreed to by the bureau, for the payment of the amount represented by the lien.

(e) The director of the bureau or the director's designee is the custodian of all titles having the state as the sole lienholder under this section. Upon receiving a title from the bureau of motor vehicles under this section, the director shall notify the owner of the motor vehicle.

(f) The bureau shall reimburse the bureau of motor vehicles for all costs incurred by the bureau in implementing this section.

SECTION 7. IC 20-12-21.2-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 9. Notwithstanding

IC 26-1-9-302(1)(a), a security interest in education loans is perfected by:

- (1) possession under IC 26-1-9-305; or
- (2) filing a financing statement in the office of the secretary of state under ~~IC 26-1-9-401, IC 26-1-9-402, or IC 26-1-9-403.~~
IC 26-1-9.1-501.

SECTION 8. IC 24-5-16-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 7. As used in this chapter, "secured party" has the meaning set forth in ~~IC 26-1-9-105(m).~~
IC 26-1-9.1-102(a)(72).

SECTION 9. IC 24-5-16-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 8. As used in this chapter, "security agreement" has the meaning set forth in ~~IC 26-1-9-105(f).~~ **IC 26-1-9.1-102(a)(73).**

SECTION 10. IC 24-7-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. Except as provided in this article, the provisions of:

- (1) the Federal Consumer Credit Protection Act and regulations adopted under it;
- (2) IC 24-4.5;
- (3) IC 26-1-1-201(37);
- (4) IC 26-1-2 concerning the creation of a security interest in property;
- (5) ~~IC 26-1-9~~ **IC 26-1-9.1**; and
- (6) rules adopted under the statutes described in subdivisions (2) through (5);

do not apply to a rental purchase agreement.

SECTION 11. IC 26-1-1-105 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 105. (1) Except as provided in this section, when a transaction bears a reasonable relation to this state and also to another state or nation the parties may agree that the law either of this state or of such other state or nation shall govern their rights and duties. Failing such agreement, IC 26-1 applies to transactions bearing an appropriate relation to this state.

(2) Where one of the following provisions of IC 26-1 specifies the applicable law, that provision governs and a contrary agreement is effective only to the extent permitted by the law (including the conflict of laws rules) so specified:

IC 26-1-2-402 concerning rights of creditors against sold goods.

IC 26-1-2.1-105 and IC 26-1-2.1-106 concerning leases.

IC 26-1-4-102 concerning bank deposits and collections.

IC 26-1-4.1-507 concerning funds transfers.

IC 26-1-5.1-116 concerning letters of credit.

IC 26-1-6.1-103 concerning bulk sales.

IC 26-1-8.1-110 concerning investment securities.

~~IC 26-1-9-103 concerning perfection of secured transactions.~~

IC 26-1-9.1-301 through IC 26-1-9.1-307 concerning the perfection, the effect of perfection or nonperfection, and the priority of security interests.

SECTION 12. IC 26-1-1-201 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 201. Subject to additional definitions contained in IC 26-1-2 through IC 26-1-10 which are applicable to specific provisions, and unless the context otherwise requires, in IC 26-1:

(1) "Action" in the sense of a judicial proceeding includes recoupment, counterclaim, setoff, suit in equity, and any other proceedings in which rights are determined.

(2) "Aggrieved party" means a party entitled to resort to a remedy.

(3) "Agreement" means the bargain of the parties in fact as found in their language or by implication from other circumstances including course of dealing or usage of trade or course of performance as provided in IC 26-1-1-205 and IC 26-1-2-208. Whether an agreement has legal consequences is determined by the provisions of IC 26-1, if applicable; otherwise by the law of contracts (IC 26-1-1-103). (Compare "Contract".)

(4) "Bank" means any person engaged in the business of banking.

(5) "Bearer" means the person in possession of an instrument, document of title, or certificated security payable to bearer or endorsed in blank.

(6) "Bill of lading" means a document evidencing the receipt of goods for shipment issued by a person engaged in the business of transporting or forwarding goods, and includes an airbill. "Airbill" means a document serving for air transportation as a bill of lading does for marine or rail transportation, and includes an air consignment note or air waybill.

(7) "Branch" includes a separately incorporated foreign branch of

a bank.

(8) "Burden of establishing" a fact means the burden of persuading the triers of fact that the existence of the fact is more probable than its nonexistence.

(9) "Buyer in ordinary course of business" means a person ~~who~~ **that buys goods** in good faith ~~and~~ without knowledge that the sale ~~to him is in violation of~~ **violates** the ownership rights or security interest of ~~a third party~~ **another person** in the goods, ~~and~~ **buys** in the ordinary course from a person, ~~other than a pawnbroker,~~ **other than a pawnbroker**, in the business of selling goods of that kind. ~~but does not include a pawnbroker. All persons who sell minerals or the like (including oil and gas) at a wellhead or minehead shall be deemed to be persons~~ **A person buys goods in the ordinary course of business if the sale to the person comports with the usual or customary practices in the kind of business in which the seller is engaged or with the seller's own usual or customary practices. A person that sells oil, gas, or other minerals at the wellhead or minehead is a person in the business of selling goods of that kind. "Buying" A buyer in ordinary course of business may be buy** for cash, or by exchange of other property, or on secured or unsecured credit, and ~~includes receiving~~ **may require** goods or documents of title under a preexisting contract for sale. ~~but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt. Only a buyer that takes possession of the goods or has a right to recover the goods from that seller under IC 26-1-2 may be a buyer in ordinary course of business. A person that acquires goods in a transfer in bulk or as security for or total or partial satisfaction of a money debt is not a buyer in ordinary course of business.~~

(10) "Conspicuous". A term or clause is conspicuous when it is so written that a reasonable person against whom it is to operate ought to have noticed it. A printed heading in capitals (as: NONNEGOTIABLE BILL OF LADING) is conspicuous. Language in the body of a form is conspicuous if it is in larger or other contrasting type or color. But in a telegram any stated term is conspicuous. Whether a term or clause is conspicuous or not is for decision by the court.

(11) "Contract" means the total legal obligation which results from the parties' agreement as affected by this Act and any other applicable rules of law. (Compare "Agreement".)

(12) "Creditor" includes a general creditor, a secured creditor, a lien creditor and any representative of creditors, including an assignee for the benefit of creditors, a trustee in bankruptcy, a receiver in equity, and an executor or administrator of an insolvent debtor's or assignor's estate.

(13) "Defendant" includes a person in the position of defendant in a cross-action or counterclaim.

(14) "Delivery" with respect to instruments, documents of title, chattel paper, or certificated securities means voluntary transfer of possession.

(15) "Document of title" includes bill of lading, dock warrant, dock receipt, warehouse receipt, or order for the delivery of goods and also any other document, which in the regular course of business or financing, is treated as adequately evidencing that the person in possession of it is entitled to receive, hold, and dispose of the document and the goods it covers. To be a document of title, a document must purport to be issued by or addressed to a bailee and purport to cover goods in the bailee's possession which are either identified or are fungible portions of an identified mass.

(16) "Fault" means wrongful act, omission, or breach.

(17) "Fungible" with respect to goods or securities means goods or securities of which any unit is, by nature or usage of trade, the equivalent of any other like unit. Goods which are not fungible shall be deemed fungible for the purposes of IC 26-1 to the extent that under a particular agreement or document unlike units are treated as equivalents.

(18) "Genuine" means free of forgery or counterfeiting.

(19) "Good faith" means honesty in fact in the conduct or transaction concerned.

(20) "Holder" with respect to a negotiable instrument, means the person in possession if the instrument is payable to bearer or, in the case of an instrument, payable to an identified person if the identified person is in possession. "Holder" with respect to a document of title, means the person in possession if the goods are deliverable to bearer or to the order of the person in possession.

(21) To "honor" is to pay or to accept and pay or where a credit so engages to purchase or discount a draft complying with the terms of the credit.

(22) "Insolvency proceedings" includes any assignment for the benefit of creditors or other proceedings intended to liquidate or rehabilitate the estate of the person involved.

(23) A person is "insolvent" who either has ceased to pay his debts in the ordinary course of business or cannot pay his debts as they become due or is insolvent within the meaning of the federal bankruptcy law.

(24) "Money" means a medium of exchange authorized or adopted by a domestic or foreign government and includes a monetary unit of account established by an intergovernmental organization or by agreement between two (2) or more nations.

(25) A person has "notice" of a fact when:

- (a) he has actual knowledge of it; or
- (b) he has received a notice or notification of it; or
- (c) from all the facts and circumstances known to him at the time in question he has reason to know that it exists.

A person "knows" or has "knowledge" of a fact when he has actual knowledge of it. "Discover" or "learn" or a word or phrase of similar import refers to knowledge rather than to reason to know. The time and circumstances under which a notice or notification may cease to be effective are not determined by IC 26-1.

(26) A person "notifies" or "gives" a notice or notification to another by taking such steps as may be reasonably required to inform the other in ordinary course whether or not such other actually comes to know of it. A person "receives" a notice or notification when:

- (a) it comes to his attention; or
- (b) it is duly delivered at the place of business through which the contract was made or at any other place held out by him as the place for receipt of such communications.

(27) Notice, knowledge, or a notice of notification received by an organization is effective for a particular transaction from the time when it is brought to the attention of the individual conducting that transaction and, in any event, from the time when it would

have been brought to his attention if the organization had exercised due diligence. An organization exercises due diligence if it maintains reasonable routines for communicating significant information to the person conducting the transaction and there is reasonable compliance with the routines. Due diligence does not require an individual acting for the organization to communicate information unless such communication is part of his regular duties or unless he has reason to know of the transaction and that the transaction would be materially affected by the information.

(28) "Organization" includes a corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, two (2) or more persons having a joint or common interest, or any other legal or commercial entity.

(29) "Party", as distinct from "third party", means a person who has engaged in a transaction or made an agreement within IC 26-1.

(30) "Person" includes an individual or an organization. (See IC 26-1-1-102.)

(31) "Presumption" or "presumed" means that the trier of fact must find the existence of the fact presumed unless and until evidence is introduced which would support a finding of its nonexistence.

(32) "Purchase" includes taking by sale, discount, negotiation, mortgage, pledge, lien, **security interest**, issue or reissue, gift, or any other voluntary transaction creating an interest in property.

(33) "Purchaser" means a person who takes by purchase.

(33a) "Registered mail" includes certified mail.

(34) "Remedy" means any remedial right to which an aggrieved party is entitled with or without resort to a tribunal.

(35) "Representative" includes an agent, an officer of a corporation or association, and a trustee, executor, or administrator of an estate, or any other person empowered to act for another.

(36) "Rights" includes remedies.

(37) "Security interest" means an interest in personal property or fixtures which secures payment or performance of an obligation.

~~The retention or reservation of title by a seller of goods notwithstanding shipment or delivery to the buyer (IC~~

~~26-1-2-401~~) is limited in effect to a reservation of a security interest. The term also includes any interest of a **consignor and a buyer of accounts, or chattel paper, which a payment intangible, or a promissory note in a transaction that** is subject to ~~IC 26-1-9~~: **IC 26-1-9.1**. The special property interest of a buyer of goods on identification of such goods to a contract for sale under IC 26-1-2-401 is not a security interest, but a buyer may also acquire a security interest by complying with ~~IC 26-1-9~~: **IC 26-1-9.1**. **Unless a lease or consignment is intended as security, reservation of title thereunder is not a security interest but a consignment is in any event subject to the provisions on consignment sales (IC 26-1-2-326): IC 26-1-9.1. Except as otherwise provided in IC 26-1-2-505, the right of a seller or lessor of goods under IC 26-1-2 or IC 26-1-2.1 to retain or acquire possession of the goods is not a "security interest", but a seller or lessor may also acquire a "security interest" by complying with IC 26-1-9.1. The retention or reservation of title by a seller of goods notwithstanding shipment or delivery to the buyer (IC 26-1-2-401) is limited in effect to a reservation of a "security interest".** Whether a transaction creates a lease or security interest is determined by the facts of each case. However, a transaction creates a security interest if the consideration the lessee is to pay the lessor for the right to possession and use of the goods is an obligation for the term of the lease not subject to termination by the lessee and:

- (a) the original term of the lease is equal to or greater than the remaining economic life of the goods;
- (b) the lessee is bound to renew the lease for the remaining economic life of the goods or is bound to become the owner of the goods;
- (c) the lessee has an option to renew the lease for the remaining economic life of the goods for no additional consideration or nominal additional consideration upon compliance with the lease agreement; or
- (d) the lessee has an option to become the owner of the goods for no additional consideration or nominal additional consideration upon compliance with the lease agreement.

A transaction does not create a security interest merely because

it provides that:

- (a) the present value of the consideration the lessee is obligated to pay the lessor for the right to possession and use of the goods is substantially equal to or is greater than the fair market value of the goods at the time the lease is entered into;
- (b) the lessee assumes risk of loss of the goods, or agrees to pay taxes, insurance, filing, recording, or registration fees, or service or maintenance costs with respect to the goods;
- (c) the lessee has an option to renew the lease or to become the owner of the goods;
- (d) the lessee has an option to renew the lease for a fixed rent that is equal to or greater than the reasonably predictable fair market rent for the use of the goods for the term of the renewal at the time the option is to be performed; or
- (e) the lessee has an option to become the owner of the goods for a fixed price that is equal to or greater than the reasonably predictable fair market value of the goods at the time the option is to be performed.

For purposes of this subsection:

- (x) Additional consideration is not nominal if:
 - (i) when the option to renew the lease is granted to the lessee the rent is stated to be the fair market rent for the use of the goods for the term of the renewal determined at the time the option is to be performed; or
 - (ii) when the option to become the owner of the goods is granted to the lessee the price is stated to be the fair market value of the goods determined at the time the option is to be performed.

Additional consideration is nominal if it is less than the lessee's reasonably predictable cost of performing under the lease agreement if the option is not exercised.

(y) "Reasonably predictable" and "remaining economic life of the goods" are to be determined with reference to the facts and circumstances at the time the transaction is entered into. ~~and~~

(z) "Present value" means the amount as of a date certain of one (1) or more sums payable in the future, discounted to the date certain. The discount is determined by the interest rate specified by the parties if the rate is not manifestly

unreasonable at the time the transaction is entered into. Otherwise, the discount is determined by a commercially reasonable rate that takes into account the facts and circumstances of each case at the time the transaction was entered into.

(38) "Send" in connection with any writing or notice means to deposit in the mail or deliver for transmission by any other usual means of communication with postage or cost of transmission provided for and properly addressed and, in the case of an instrument, to an address specified thereon or otherwise agreed or, if there be none, to any address reasonable under the circumstances. The receipt of any writing or notice within the time at which it would have arrived if properly sent has the effect of a proper sending.

(39) "Signed" includes any symbol executed or adopted by a party with present intention to authenticate a writing.

(40) "Surety" includes guarantor.

(41) "Telegram" includes a message transmitted by radio, teletype, cable, any mechanical method of transmission, or the like.

(42) "Term" means that portion of an agreement which relates to a particular matter.

(43) "Unauthorized" signature means one made without actual, implied, or apparent authority and includes a forgery.

(44) "Value". Except as otherwise provided with respect to negotiable instruments and bank collections (IC 26-1-3.1-303, IC 26-1-4-208, and IC 26-1-4-209) a person gives value for rights if he acquires them:

(a) in return for a binding commitment to extend credit or for the extension of immediately available credit whether or not drawn upon and whether or not a chargeback is provided for in the event of difficulties in collection;

(b) as security for or in total or partial satisfaction of a preexisting claim;

(c) by accepting delivery pursuant to a preexisting contract for purchase; or

(d) generally, in return for any consideration sufficient to support a simple contract.

(45) "Warehouse receipt" means a receipt issued by a person engaged in the business of storing goods for hire.

(46) "Written" or "writing" includes printing, typewriting, or any other intentional reduction to tangible form.

SECTION 13. IC 26-1-1-206 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 206. (1) Except in the cases described in subsection (2), a contract for the sale of personal property is not enforceable by way of action or defense beyond five thousand dollars (\$5,000) in amount or value of remedy unless there is some writing which indicates that a contract for sale has been made between the parties at a defined or stated price, reasonably identifies the subject matter, and is signed by the party against whom enforcement is sought or by his authorized agent.

(2) Subsection (1) does not apply to contracts for the sale of goods (IC 26-1-2-201) nor to security agreements (~~IC 26-1-9-203~~). (IC 26-1-9.1-201).

SECTION 14. IC 26-1-1.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]:

Chapter 1.5. UCC Forms

Sec. 1. The forms in this chapter may be used for filings under IC 26-1.

Sec. 2. The following forms are set forth below:

(1) IC 26-1-9.1 financing statement.

(2) IC 26-1-9.1 financing statement amendment.



UCC FINANCING STATEMENT
FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT FILER (optional)	
B. SEND ACKNOWLEDGMENT TO: (Name and Address)	
┌	┐
└	┘

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTORS EXACT FULL LEGAL NAME - insert only one debtor name (1a or 1b) - do not abbreviate or combine names.

OR				
1a. ORGANIZATION'S NAME				
1b. INDIVIDUAL'S NAME		FIRST NAME	MIDDLE NAME	SUFFIX
1c. MAILING ADDRESS		CITY	STATE	POSTAL CODE
				COUNTRY
ADDITIONAL INFO RE ORGANIZATION DEBTOR		1e. TYPE OF ORGANIZATION	1f. JURISDICTION OF ORGANIZATION	1g. ORGANIZATION ID#, if any
				<input type="checkbox"/> NONE

2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (2a or 2b) - do not abbreviate or combine names.

OR				
2a. ORGANIZATION'S NAME				
2b. INDIVIDUAL'S LAST NAME		FIRST NAME	MIDDLE NAME	SUFFIX
2c. MAILING ADDRESS		CITY	STATE	POSTAL CODE
				COUNTRY
ADDITIONAL INFO RE ORGANIZATION DEBTOR		2e. TYPE OF ORGANIZATION	2f. JURISDICTION OF ORGANIZATION	2g. ORGANIZATION ID#, if any
				<input type="checkbox"/> NONE

3. SECURED PARTY'S NAME (or NAME of TOTAL ASSIGNEE of ASSIGNOR S/P) - insert only one secured part name (3a or 3b)

OR				
3a. ORGANIZATION'S NAME				
3b. INDIVIDUAL'S LAST NAME		FIRST NAME	MIDDLE NAME	SUFFIX
3c. MAILING ADDRESS		CITY	STATE	POSTAL CODE
				COUNTRY

4. This FINANCING STATEMENT covers the following collateral:

5. ALTERNATIVE DESIGNATION (if applicable) LESSEE/LESSOR CONSIGNEE/CONSIGNOR BAILEE/BAILOR SELLER/BUYER AG. LIEN NON-UCC FILING

6. This FINANCING STATEMENT is to be filed (for record) (or recorded) in the REAL ESTATE RECORDS. Attached Addendum (if applicable) 7. Check to REQUEST SEARCH REPORT(S) on Debtor(s) (optional) All Debtors Debtor 1 Debtor 2 (ADDITIONAL FEE)

8. DEBTOR SIGNATURE

UCC FINANCING STATEMENT ADDENDUM

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

9. NAME OF FIRST DEBTOR (1a or 1b) ON RELATED FINANCING STATEMENT

9a. ORGANIZATION'S NAME

9b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME, SUFFIX
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10. MISCELLANEOUS:

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

11. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (11a or 11b) - do not abbreviate or combine names

OR

11a. ORGANIZATION'S NAME			
11b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX

11c. MAILING ADDRESS

CITY	STATE	POSTAL CODE	COUNTRY
------	-------	-------------	---------

11d. TYPE OF ORGANIZATION 11e. JURISDICTION OF ORGANIZATION 11g. ORGANIZATION ID#, if any

11f. ADDITIONAL INFO RE ORGANIZATION DEBTOR NONE

12. ADDITIONAL SECURED PARTY'S or ASSIGNOR S/P'S NAME - insert only one name (12a or 12b)

OR

12a. ORGANIZATION'S NAME			
12b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX

12c. MAILING ADDRESS

CITY	STATE	POSTAL CODE	COUNTRY
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13. This FINANCING STATEMENT covers timber to be cut or re-elected collateral, or is filed as a future filing

14. Description of real estate:

15. Name and address of a RECORD OWNER of above-described real estate (if Debtor does not have a record interest):

16. Additional collateral description:

17. Check only if applicable and check only one box.
Debtor is a Trust or Trustee acting with respect to property held in trust or Decedent's Estate

18. Check only if applicable and check only one box.
 Debtor is a TRANSMITTING UTILITY
 Filed in connection with a Manufactured-Home Transaction —effective 30 years
 Filed in connection with a Public-Finance Transaction —effective 30 years

FILING OFFICE COPY—NATIONAL UCC FINANCING STATEMENT ADDENDUM (FORM UCC1Adj)(REV. 04/23/98)

END OF IC 26-1-9.1 FINANCING STATEMENT



UCC FINANCING STATEMENT AMENDMENT

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT FILER (optional)	
B. SEND ACKNOWLEDGMENT TO: (Name and Address)	
┌	┐
└	┘

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1a. INITIAL FINANCING STATEMENT FILE # _____

1b. This FINANCING STATEMENT AMENDMENT is to be filed (for record) (or recorded) in the _____ REAL ESTATE RECORDS.

2. TERMINATION: Effectiveness of the Financing Statement identified above is terminated with respect to security interest(s) of the Secured party authorizing this Termination Statement

3. CONTINUATION: Effectiveness of the Financing Statement identified above with respect to security interest(s) of the Secured Party authorizing this Continuation Statement is continued for the additional period provided by applicable law.

4. ASSIGNMENT (full or partial): Give name of assignee in item 7a or 7b and address of assignee in item 7c.

5. AMENDMENT (PARTY INFORMATION): This Amendment affects Debtor or Secured party of record. Check only one of these boxes. Also check one of the following three boxes and provide appropriate information in items 6 and/or 7.

CHANGE name and/or address: Give current record name in item 6 or 6b; also give new name (if name change) in item 7a or 7b and/or new address (if address change) in item 7c. DELETE name: give record name ADD name: Complete item 7a or 7b and also to be deleted in item 6a or 6b; item 7c; also complete 7e-7g (if applicable).

6. CURRENT RECORD INFORMATION:

OR

6a. ORGANIZATION'S NAME			
6b. INDIVIDUAL'S NAME	FIRST NAME	MIDDLE NAME	SUFFIX

7. CHANGED (NEW) OR ADDED INFORMATION:

OR

7a. ORGANIZATION'S NAME			
7b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX

7c. ADDRESS	CITY	STATE	POSTAL CODE	COUNTRY
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ADCL INFO RE ORGANIZATION DEBTOR	7e. TYPE OF ORGANIZATION	7f. JURISDICTION OF ORGANIZATION	7g. ORGANIZATION ID#, if any	<input type="checkbox"/> NONE
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8. AMENDMENT (COLLATERAL CHANGE): Check only one box. Describe collateral Deleted or Added; or give entire restated collateral description, or describe collateral assigned.

9. NAME OF SECURED PARTY OF RECORD AUTHORIZING THIS AMENDMENT (name of assignor, if this is an Assignment). If this is an Amendment authorized by a Debtor which adds collateral or adds the authorizing Debtor, or if this is a Termination authorized by a Debtor, check here and enter name of DEBTOR authorizing this Amendment.

OR

9a. ORGANIZATION'S NAME			
9b. INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME	SUFFIX

10. DEBTOR SIGNATURE _____

UCC FINANCING STATEMENT AMENDMENT ADDENDUM

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

11. INITIAL FINANCING STATEMENT FILE # (same as item 1a on amendment form)		
12. NAME OF PARTY AUTHORIZING THIS AMENDMENT (same as item 9 on Amendment form)		
12a ORGANIZATION'S NAME		
OR		
12b INDIVIDUAL'S LAST NAME	FIRST NAME	MIDDLE NAME, SUFFIX

13. Use this space for additional information

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

SECTION 15. IC 26-1-2-103 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 103. (1) In IC 26-1-2, unless the context otherwise requires:

- (a) "Buyer" means a person who buys or contracts to buy goods.
- (b) "Good faith" in the case of a merchant means honesty in fact and observance of reasonable commercial standards of fair dealing in the trade.
- (c) "Receipt" of goods means taking physical possession of them.
- (d) "Seller" means a person who sells or contracts to sell goods.

(2) Other definitions applying to IC 26-1-2, or to specified parts thereof, and the sections in which they appear are:

- "Acceptance". IC 26-1-2-606.
- "Banker's credit". IC 26-1-2-325.
- "Between merchants". IC 26-1-2-104.
- "Cancellation". IC 26-1-2-106(4).
- "Commercial unit". IC 26-1-2-105.
- "Confirmed credit". IC 26-1-2-325.
- "Conforming to contract". IC 26-1-2-106.
- "Contract for sale". IC 26-1-2-106.
- "Cover". IC 26-1-2-712.
- "Entrusting". IC 26-1-2-403.
- "Financing agency". IC 26-1-2-104.
- "Future goods". IC 26-1-2-105.
- "Goods". IC 26-1-2-105.
- "Identification". IC 26-1-2-501.
- "Installment contract". IC 26-1-2-612.
- "Letter of credit". IC 26-1-2-325.
- "Lot". IC 26-1-2-105.
- "Merchant". IC 26-1-2-104.
- "Overseas". IC 26-1-2-323.
- "Person in the position of seller". IC 26-1-2-707.
- "Present sale". IC 26-1-2-106.
- "Sale". IC 26-1-2-106.
- "Sale on approval". IC 26-1-2-326.
- "Sale or return". IC 26-1-2-326.
- "Termination". IC 26-1-2-106.

(3) The following definitions apply to IC 26-1-2:

- "Check". IC 26-1-3.1-104.

"Consignee". IC 26-1-7-102.

"Consignor". IC 26-1-7-102.

"Consumer goods". ~~IC 26-1-9-109~~. IC 26-1-9.1-102.

"Dishonor". IC 26-1-3.1-502.

"Draft". IC 26-1-3.1-104.

(4) In addition, IC 26-1-1 contains general definitions and principles of construction and interpretation applicable throughout IC 26-1-2.

SECTION 16. IC 26-1-2-210 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 210. (1) A party may perform his duty through a delegate, unless otherwise agreed, or unless the other party has a substantial interest in having his original promisor perform or control the acts required by the contract. No delegation of performance relieves the party delegating of any duty to perform or any liability for breach.

(2) Unless otherwise agreed, all rights of either seller or buyer can be assigned except where the assignment would materially change the duty of the other party, or increase materially the burden or risk imposed on him by his contract, or impair materially his chance of obtaining return performance. A right to damages for breach of the whole contract or a right arising out of the assignor's due performance of his entire obligation can be assigned despite agreement otherwise.

(3) The creation, attachment, perfection, or enforcement of a security interest in the seller's interest under a contract is not a transfer that materially changes the duty of or increases materially the burden or risk imposed on the buyer or impairs materially the buyer's chance of obtaining return performance within the purview of subsection (2) unless, and then only to the extent that, enforcement actually results in a delegation of material performance of the seller. Even in that event, the creation, attachment, perfection, and enforcement of the security interest remain effective, but (i) the seller is liable to the buyer for damages caused by the delegation to the extent that the damages could not reasonably be prevented by the buyer, and (ii) a court having jurisdiction may grant other appropriate relief, including cancellation of the contract for sale or an injunction against enforcement of the security interest or consummation of the enforcement.

(4) Unless the circumstances indicate the contrary, a prohibition of

assignment of "the contract" is to be construed as barring only the delegation to the assignee of the assignor's performance.

~~(4)~~ (5) An assignment of "the contract" or of "all my rights under the contract" or an assignment in similar general terms is an assignment of rights, and unless the language or the circumstances (as in an assignment for security) indicate the contrary, it is a delegation of performance of the duties of the assignor, and its acceptance by the assignee constitutes a promise by him to perform those duties. This promise is enforceable by either the assignor or the other party to the original contract.

~~(5)~~ (6) The other party may treat any assignment which delegates performance as creating reasonable grounds for insecurity and may, without prejudice to his rights against the assignor, demand assurances from the assignee (IC 26-1-2-609).

SECTION 17. IC 26-1-2-326 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 326. (1) Unless otherwise agreed, if delivered goods may be returned by the buyer even though they conform to the contract, the transaction is:

- (a) a "sale on approval" if the goods are delivered primarily for use; and
- (b) a "sale or return" if the goods are delivered primarily for resale.

(2) Except as provided in subsection (3); Goods held on approval are not subject to the claims of the buyer's creditors until acceptance. Goods held on sale or return are subject to such claims while in the buyer's possession.

(3) Where goods are delivered to a person for sale and such person maintains a place of business at which he deals in goods of the kind involved; under a name other than the name of the person making delivery; then with respect to claims of creditors of the person conducting the business the goods are deemed to be on sale or return. The provisions of this subsection are applicable even though an agreement purports to reserve title to the person making delivery until payment or resale or uses such words as "on consignment" or "on memorandum." However, this subsection is not applicable if the person making delivery:

- (a) complies with an applicable law providing for a consignor's interest or the like to be evidenced by a sign; or

(b) establishes that the person conducting the business is generally known by his creditors to be substantially engaged in selling the goods of others; or

(c) complies with the filing provisions of ~~IC 26-1-9~~ on secured transactions.

~~(4)~~ (3) Any "or return" term of a contract for sale is to be treated as a separate contract for sale within the statute of frauds section (IC 26-2-2-201) and as contradicting the sale aspect of the contract within the provisions of IC 26-1-2-202 on parol or extrinsic evidence.

SECTION 18. IC 26-1-2-401 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 401. Each provision of IC 26-1-2 with regard to the rights, obligations, and remedies of the seller, the buyer, purchasers, or other third parties applies irrespective of title to the goods, except where the provision refers to such title. Insofar as situations are not covered by the other provisions of IC 26-1-2 and matters concerning title become material, the following rules apply:

(1) Title to goods cannot pass under a contract for sale prior to their identification to the contract (IC 26-1-2-501), and unless otherwise explicitly agreed, the buyer acquires by their identification a special property as limited by IC 26-1. Any retention or reservation by the seller of the title (property) in goods shipped or delivered to the buyer is limited in effect to a reservation of a security interest. Subject to these provisions and to the provisions of ~~IC 26-1-9~~ **IC 26-1-9.1** on secured transactions, title to goods passes from the seller to the buyer in any manner and on any conditions explicitly agreed on by the parties.

(2) Unless otherwise explicitly agreed, title passes to the buyer at the time and place at which the seller completes his performance with reference to the physical delivery of the goods, despite any reservation of a security interest and even though a document of title is to be delivered at a different time or place, and in particular despite any reservation of a security interest by the bill of lading:

(a) if the contract requires or authorizes the seller to send the goods to the buyer but does not require him to deliver them at destination, title passes to the buyer at the time and place of

shipment; but

(b) if the contract requires delivery at destination, title passes on tender there.

(3) Unless otherwise explicitly agreed, where delivery is to be made without moving the goods:

(a) if the seller is to deliver a document of title, title passes at the time when and the place where he delivers such documents; or

(b) if the goods are at the time of contracting already identified and no documents are to be delivered, title passes at the time and place of contracting.

(4) A rejection or other refusal by the buyer to receive or retain the goods, whether or not justified, or a justified revocation of acceptance reverts title to the goods in the seller. Such reversion occurs by operation of law and is not a "sale".

SECTION 19. IC 26-1-2-402 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 402. (1) Except as provided in subsections (2) and (3), rights of unsecured creditors of the seller with respect to goods which have been identified to a contract for sale are subject to the buyer's rights to recover the goods under IC 26-1-2-502 and IC 26-1-2-716.

(2) A creditor of the seller may treat a sale or an identification of goods to a contract for sale as void if as against him a retention of possession by the seller is fraudulent under any rule of law of the state where the goods are situated, except that retention of possession in good faith and current course of trade by a merchant-seller for a commercially reasonable time after a sale or identification is not fraudulent.

(3) Nothing in IC 26-1-2 shall be deemed to impair the rights of creditors of the seller:

(a) under the provisions of ~~IC 26-1-9~~ **IC 26-1-9.1** on secured transactions; or

(b) where identification to the contract or delivery is made not in current course of trade but in satisfaction of or as security for a pre-existing claim for money, security, or the like and is made under circumstances which under any rule of law of the state where the goods are situated would apart from IC 26-1-2 constitute the transaction a fraudulent transfer or voidable

preference.

SECTION 20. IC 26-1-2-403 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 403. (1) A purchaser of goods acquires all title which his transferor had or had power to transfer, except that a purchaser of a limited interest acquires rights only to the extent of the interest purchased. A person with voidable title has power to transfer a good title to a good faith purchaser for value. When goods have been delivered under a transaction of purchase, the purchaser has such power even though:

- (a) the transferor was deceived as to the identity of the purchaser; or
- (b) the delivery was in exchange for a check which is later dishonored; or
- (c) it was agreed that the transaction was to be a "cash sale"; or
- (d) the delivery was procured through fraud punishable as theft under the criminal law.

(2) Any entrusting of possession of goods to a merchant who deals in goods of that kind gives him power to transfer all rights of the entruster to a buyer in ordinary course of business.

(3) "Entrusting" includes any delivery and any acquiescence in retention of possession regardless of any condition expressed between the parties to the delivery or acquiescence and regardless of whether the procurement of the entrusting or the possessor's disposition of the goods have been such as to be theft under the criminal law.

(4) The rights of other purchasers of goods and of lien creditors are governed by ~~IC 26-1-9~~ **IC 26-1-9.1** on secured transactions, IC 26-1-6.1 on bulk sales, and IC 26-1-7 on documents of title.

SECTION 21. IC 26-1-2-502 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 502. (1) Subject to ~~subsection~~ **subsections (2) and (3)** and even though the goods have not been shipped, a buyer who has paid a part or all of the price of goods in which he has a special property under the provisions of IC 26-1-2-501 may on making and keeping good a tender of any unpaid portion of their price recover them from the seller if:

- (a) in the case of goods bought for personal, family, or household purposes, the seller repudiates or fails to deliver as required by the contract; or**
- (b) in other cases, the seller becomes insolvent within ten (10)**

days after receipt of the first installment on their price.

(2) The buyer's right to recover the goods under subsection (1)(a) vests upon acquisition of a special property, even if the seller had not then repudiated or failed to deliver.

(3) If the identification creating his special property has been made by the buyer, he acquires the right to recover the goods only if they conform to the contract for sale.

SECTION 22. IC 26-1-2-716 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 716. (1) Specific performance may be decreed where the goods are unique or in other proper circumstances.

(2) The decree for specific performance may include such terms and conditions as to payment of the price, damages, or other relief as the court may deem just.

(3) The buyer has a right of replevin for goods identified to the contract if after reasonable effort he is unable to effect cover for such goods or the circumstances reasonably indicate that such effort will be unavailing or if the goods have been shipped under reservation and satisfaction of the security interest in them has been made or tendered. **In the case of goods bought for personal, family, or household purposes, the buyer's right of replevin vests upon acquisition of a special property, even if the seller had not then repudiated or failed to deliver.**

SECTION 23. IC 26-1-2.1-103 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 103. (1) Unless the context otherwise requires, in IC 26-1-2.1:

(a) "Buyer in ordinary course of business" means a person who in good faith and without knowledge that the sale to the person is in violation of the ownership rights or security interest or leasehold interest of a third party in the goods, buys in ordinary course from a person in the business of selling goods of that kind but does not include a pawnbroker. "Buying" may be for cash or by exchange of other property or on secured or unsecured credit and includes receiving goods or documents of title under a pre-existing contract for sale but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

(b) "Cancellation" occurs when either party puts an end to the lease contract for default by the other party.

- (c) "Commercial unit" means such a unit of goods as by commercial usage is a single whole for purposes of lease and division of which materially impairs its character or value on the market or in use. A commercial unit may be a single article, as a machine, or a set of articles, as a suite of furniture or a line of machinery, or a quantity, as a gross or carload, or any other unit treated in use or in the relevant market as a single whole.
- (d) "Conforming" goods or performance under a lease contract means goods or performance that are in accordance with the obligations under the lease contract.
- (e) "Consumer lease" means a lease that a lessor regularly engaged in the business of leasing or selling makes to a lessee who is an individual and who takes under the lease primarily for a personal, family, or household purpose if the total payments to be made under the lease contract, excluding payments for options to renew or buy, do not exceed twenty-five thousand dollars (\$25,000).
- (f) "Fault" means wrongful act, omission, breach, or default.
- (g) "Finance lease" means a lease with respect to which:
- (i) the lessor does not select, manufacture, or supply the goods;
 - (ii) the lessor acquires the goods or the right to possession and use of the goods in connection with the lease; and
 - (iii) one (1) of the following occurs:
 - (A) the lessee receives a copy of the contract by which the lessor acquired the goods or the right to possession and use of the goods before signing the lease contract;
 - (B) the lessee's approval of the contract by which the lessor acquired the goods or the right to possession and use of the goods is a condition to effectiveness of the lease contract;
 - (C) the lessee, before signing the lease contract, receives an accurate and complete statement designating the promises and warranties, and any disclaimers of warranties, limitations, or modifications of remedies, or liquidated damages, including those of a third party, such as the manufacturer of the goods, provided to the lessor by the person supplying the goods in connection with or as part of the contract by which the lessor acquired the goods or the right to possession and use of the goods; or

(D) if the lease is not a consumer lease, the lessor, before the lessee signs the lease contract, informs the lessee in writing: (a) of the identity of the person supplying the goods to the lessor, unless the lessee has selected that person and directed the lessor to acquire the goods or the right to possession and use of the goods from that person; (b) that the lessee is entitled under IC 26-1-2.1 to the promises and warranties, including those of any third party, provided to the lessor by the person supplying the goods in connection with or as part of the contract by which the lessor acquired the goods or the right to possession and use of the goods; and (c) that the lessee may communicate with the person supplying the goods to the lessor and receive an accurate and complete statement of those promises and warranties, including any disclaimers and limitations of them or of remedies.

(h) "Goods" means all things that are movable at the time of identification to the lease contract, or are fixtures (IC 26-1-2.1-309), but the term does not include money, documents, instruments, accounts, chattel paper, general intangibles, or minerals or the like, including oil and gas, before extraction. The term also includes the unborn young of animals.

(i) "Installment lease contract" means a lease contract that authorizes or requires the delivery of goods in separate lots to be separately accepted, even though the lease contract contains a clause "each delivery is a separate lease" or its equivalent.

(j) "Lease" means a transfer of the right to possession and use of goods for a term in return for consideration, but a sale, including a sale on approval or a sale or return, or retention or creation of a security interest is not a lease. Unless the context clearly indicates otherwise, the term includes a sublease.

(k) "Lease agreement" means the bargain, with respect to the lease, of the lessor and the lessee in fact as found in their language or by implication from other circumstances including course of dealing or usage of trade or course of performance as provided in IC 26-1-2.1. Unless the context clearly indicates otherwise, the term includes a sublease agreement.

(l) "Lease contract" means the total legal obligation that results

from the lease agreement as affected by IC 26-1-2.1 and any other applicable rules of law. Unless the context clearly indicates otherwise, the term includes a sublease contract.

(m) "Leasehold interest" means the interest of the lessor or the lessee under a lease contract.

(n) "Lessee" means a person who acquires the right to possession and use of goods under a lease. Unless the context clearly indicates otherwise, the term includes a sublessee.

(o) "Lessee in ordinary course of business" means a person who in good faith and without knowledge that the lease to the person is in violation of the ownership rights or security interest or leasehold interest of a third party in the goods leases in ordinary course from a person in the business of selling or leasing goods of that kind but does not include a pawnbroker. "Leasing" may be for cash or by exchange of other property or on secured or unsecured credit and includes receiving goods or documents of title under a pre-existing lease contract but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

(p) "Lessor" means a person who transfers the right to possession and use of goods under a lease. Unless the context clearly indicates otherwise, the term includes a sublessor.

(q) "Lessor's residual interest" means the lessor's interest in the goods after expiration, termination, or cancellation of the lease contract.

(r) "Lien" means a charge against or interest in goods to secure payment of a debt or performance of an obligation, but the term does not include a security interest.

(s) "Lot" means a parcel or a single article that is the subject matter of a separate lease or delivery, whether or not it is sufficient to perform the lease contract.

(t) "Merchant lessee" means a lessee that is a merchant with respect to goods of the kind subject to the lease.

(u) "Present value" means the amount as of a date certain of one (1) or more sums payable in the future, discounted to the date certain. The discount is determined by the interest rate specified by the parties if the rate was not manifestly unreasonable at the time the transaction was entered into; otherwise, the discount is determined by a commercially reasonable rate that takes into

account the facts and circumstances of each case at the time the transaction was entered into.

(v) "Purchase" includes taking by sale, lease, mortgage, security interest, pledge, gift, or any other voluntary transaction creating an interest in goods.

(w) "Sublease" means a lease of goods the right to possession and use of which was acquired by the lessor as a lessee under an existing lease.

(x) "Supplier" means a person from whom a lessor buys or leases goods to be leased under a finance lease.

(y) "Supply contract" means a contract under which a lessor buys or leases goods to be leased.

(z) "Termination" occurs when either party pursuant to a power created by agreement or law puts an end to the lease contract otherwise than for default.

(2) Other definitions applying to IC 26-1-2.1 and the sections in which they appear are:

"Accessions". IC 26-1-2.1-310(1).

"Construction mortgage". IC 26-1-2.1-309(1)(d).

"Encumbrance". IC 26-1-2.1-309(1)(e).

"Fixtures". IC 26-1-2.1-309(1)(a).

"Fixture filing". IC 26-1-2.1-309(1)(b).

"Purchase money lease". IC 26-1-2.1-309(1)(c).

(3) The following definitions in other chapters apply to IC 26-1-2.1:

"Account". ~~IC 26-1-9-106~~. **IC 26-1-9.1-102(a)(2)**.

"Between merchants". IC 26-1-2-104(3).

"Buyer". IC 26-1-2-103(1)(a).

"Chattel paper". ~~IC 26-1-9-105(1)(b)~~. **IC 26-1-9.1-102(a)(11)**.

"Consumer goods". ~~IC 26-1-9-109(1)~~. **IC 26-1-9.1-102(a)(23)**.

"Document". ~~IC 26-1-9-105(1)(f)~~. **IC 26-1-9.1-102(a)(30)**.

"Entrusting". IC 26-1-2-403(3).

"General intangibles". ~~IC 26-1-9-106~~. **IC 26-1-9.1-102(a)(42)**.

"Good faith". IC 26-1-2-103(1)(b).

"Instrument". ~~IC 26-1-9-105(1)(i)~~. **IC 26-1-9.1-102(a)(47)**.

"Merchant". IC 26-1-2-104(1).

"Mortgage". ~~IC 26-1-9-105(1)(j)~~. **IC 26-1-9.1-102(a)(55)**.

"Pursuant to commitment". ~~IC 26-1-9-105(1)(k)~~. **IC 26-1-9.1-102(a)(68)**.

"Receipt". IC 26-1-2-103(1)(c).

"Sale". IC 26-1-2-106(1).

"Sale on approval". IC 26-1-2-326.

"Sale or return". IC 26-1-2-326.

"Seller". IC 26-1-2-103(1)(d).

(4) In addition, IC 26-1-1 contains general definitions and principles of construction and interpretation applicable throughout IC 26-1-2.1.

SECTION 24. IC 26-1-2.1-303 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 303. (1) As used in this section, "creation of a security interest" includes the sale of a lease contract that is subject to IC 26-1-9, by reason of ~~IC 26-1-9-102(1)(b)~~; **IC 26-1-9.1-109(a)(3)**.

(2) Except as provided in ~~subsections~~ **subsection (3)** and ~~(4)~~; **IC 26-1-9.1-407**, a provision in a lease agreement which (i) prohibits the voluntary or involuntary transfer, including a transfer by sale, sublease, creation or enforcement of a security interest, or attachment, levy, or other judicial process, of an interest of a party under the lease contract or of the lessor's residual interest in the goods, or (ii) makes such a transfer an event of default, gives rise to the rights and remedies provided in subsection ~~(5)~~; **(4)**, but a transfer that is prohibited or is an event of default under the lease agreement is otherwise effective.

~~(3) A provision in a lease agreement which (i) prohibits the creation or enforcement of a security interest in an interest of a party under the lease contract or in the lessor's residual interest in the goods; or (ii) makes such a transfer an event of default; is not enforceable unless; and then only to the extent that; there is an actual transfer by the lessee of the lessee's right of possession or use of the goods in violation of the provision or an actual delegation of a material performance of either party to the lease contract in violation of the provision. Neither the granting nor the enforcement of a security interest in (i) the lessor's interest under the lease contract or (ii) the lessor's residual interest in the goods is a transfer that materially impairs the prospect of obtaining return performance by; materially changes the duty of; or materially increases the burden or risk imposed on; the lessee within the purview of subsection (5) unless; and then only to the extent that; there is an actual delegation of a material performance of the lessor.~~

~~(4)~~ **(3)** A provision in a lease agreement which (i) prohibits a transfer of a right to damages for default with respect to the whole lease

contract or of a right to payment arising out of the transferor's due performance of the transferor's entire obligation, or (ii) makes such a transfer an event of default, is not enforceable, and such a transfer is not a transfer that materially impairs the prospect of obtaining return performance by, materially changes the duty of, or materially increases the burden or risk imposed on, the other party to the lease contract within the purview of subsection ~~(5)~~: **(4)**.

~~(5)~~ **(4)** Subject to ~~subsections~~ **subsection** (3) and ~~(4)~~
IC 26-1-9.1-407:

(a) if a transfer is made which is made an event of default under a lease agreement, the party to the lease contract not making the transfer, unless that party waives the default or otherwise agrees, has the rights and remedies described in IC 26-1-2.1-501(2); **or** (b) if subdivision (a) is not applicable and if a transfer is made that (i) is prohibited under a lease agreement or (ii) materially impairs the prospect of obtaining return performance by, materially changes the duty of, or materially increases the burden or risk imposed on, the other party to the lease contract, unless the party not making the transfer agrees at any time to the transfer in the lease contract or otherwise, then, except as limited by contract, (i) the transferor is liable to the party not making the transfer for damages caused by the transfer to the extent that the damages could not reasonably be prevented by the party not making the transfer and (ii) a court having jurisdiction may grant other appropriate relief, including cancellation of the lease contract or an injunction against the transfer.

~~(6)~~ **(5)** A transfer of "the lease" or of "all my rights under the lease", or a transfer in similar general terms, is a transfer of rights and, unless the language or the circumstances, as in a transfer for security, indicate the contrary, the transfer is a delegation of duties by the transferor to the transferee. Acceptance by the transferee constitutes a promise by the transferee to perform those duties. The promise is enforceable by either the transferor or the other party to the lease contract.

~~(7)~~ **(6)** Unless otherwise agreed by the lessor and the lessee, a delegation of performance does not relieve the transferor as against the other party of any duty to perform or of any liability for default.

~~(8)~~ **(7)** In a consumer lease, to prohibit the transfer of an interest of a party under the lease contract or to make a transfer an event of

default, the language must be specific, by a writing, and conspicuous.

SECTION 25. IC 26-1-2.1-307 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 307. (1) Except as otherwise provided in IC 26-1-2.1-306, a creditor of a lessee takes subject to the lease contract.

(2) Except as otherwise provided in ~~subsections~~ **subsection (3) and (4)** and in IC 26-1-2.1-306 and IC 26-1-2.1-308, a creditor of a lessor takes subject to the lease contract unless

(a) the creditor holds a lien that attached to the goods before the lease contract became enforceable.

(b) the creditor holds a security interest in the goods and the lessee did not give value and receive delivery of the goods without knowledge of the security interest; or

(c) the creditor holds a security interest in the goods which was perfected (~~IC 26-1-2.1-303~~) before the lease contract became enforceable.

(3) A lessee in the ordinary course of business takes the leasehold interest free of a security interest in the goods created by the lessor even though the security interest is perfected (~~IC 26-1-2.1-303~~) and the lessee knows of its existence.

(4) A lessee other than a lessee in the ordinary course of business takes the leasehold interest free of a security interest to the extent that it secures future advances made after the secured party acquires knowledge of the lease or more than forty-five (45) days after the lease contract becomes enforceable; whichever first occurs; unless the future advances are made pursuant to a commitment entered into without knowledge of the lease and before the expiration of the forty-five (45) day period.

(3) Except as otherwise provided in IC 26-1-9.1-317, IC 26-1-9.1-321, and IC 26-1-9.1-323, a lessee takes a leasehold interest subject to a security interest held by a creditor of the lessor.

SECTION 26. IC 26-1-2.1-309 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 309. (1) In this section:

(a) goods are "fixtures" when they become so related to particular real estate that an interest in them arises under real estate law;

(b) a "fixture filing" is the filing, in the office where a mortgage on the real estate would be filed or recorded, of a financing

statement covering goods that are or are to become fixtures and conforming to the requirements of ~~IC 26-1-9-402(4)~~; **IC 26-1-9.1-502(a) and IC 26-1-9.1-502(b)**;

(c) a lease is a "purchase money lease" unless the lessee has possession or use of the goods or the right to possession or use of the goods before the lease agreement is enforceable;

(d) a mortgage is a "construction mortgage" to the extent it secures an obligation incurred for the construction of an improvement on land including the acquisition cost of the land, if the recorded writing so indicates; and

(e) "encumbrance" includes real estate mortgages and other liens on real estate and all other rights in real estate that are not ownership interests.

(2) Under IC 26-1-2.1 a lease may be of goods that are fixtures or may continue in goods that become fixtures, but no lease exists under IC 26-1-2.1 of ordinary building materials incorporated into an improvement on land.

(3) IC 26-1-2.1 does not prevent creation of a lease of fixtures pursuant to real estate law.

(4) The perfected interest of a lessor of fixtures has priority over a conflicting interest of an encumbrancer or owner of the real estate if:

(a) the lease is a purchase money lease, the conflicting interest of the encumbrancer or owner arises before the goods become fixtures, the interest of the lessor is perfected by a fixture filing before the goods become fixtures or within ten (10) days thereafter, and the lessee has an interest of record in the real estate or is in possession of the real estate; or

(b) the interest of the lessor is perfected by a fixture filing before the interest of the encumbrancer or owner is of record, the lessor's interest has priority over any conflicting interest of a predecessor in title of the encumbrancer or owner, and the lessee has an interest of record in the real estate or is in possession of the real estate.

(5) The interest of a lessor of fixtures, whether or not perfected, has priority over the conflicting interest of an encumbrancer or owner of the real estate if:

(a) the fixtures are readily removable factory or office machines, readily removable equipment that is not primarily used or leased

for use in the operation of the real estate, or readily removable replacements of domestic appliances that are goods subject to a consumer lease, and before the goods become fixtures the lease contract is enforceable; or

(b) the conflicting interest is a lien on the real estate obtained by legal or equitable proceedings after the lease contract is enforceable; or

(c) the encumbrancer or owner has consented in writing to the lease or has disclaimed an interest in the goods as fixtures; or

(d) the lessee has a right to remove the goods as against the encumbrancer or owner. If the lessee's right to remove terminates, the priority of the interest of the lessor continues for a reasonable time.

(6) Notwithstanding subsection 4(a) but otherwise subject to subsections (4) and (5), the interest of a lessor of fixtures, including the lessor's residual interest, is subordinate to the conflicting interest of an encumbrancer of the real estate under a construction mortgage recorded before the goods become fixtures if the goods become fixtures before the completion of the construction. To the extent given to refinance a construction mortgage, the conflicting interest of an encumbrancer of the real estate under a mortgage has this priority to the same extent as the encumbrancer of the real estate under the construction mortgage.

(7) In cases not within the preceding subsections, priority between the interest of a lessor of fixtures, including the lessor's residual interest, and the conflicting interest of an encumbrancer or owner of the real estate who is not the lessee is determined by the priority rules governing conflicting interests in real estate.

(8) If the interest of a lessor of fixtures, including the lessor's residual interest, has priority over all conflicting interests of all owners and encumbrancers of the real estate, the lessor or the lessee may (i) on default, expiration, termination, or cancellation of the lease agreement but subject to the lease agreement and IC 26-1-2.1, or (ii) if necessary to enforce other rights and remedies of the lessor or lessee under IC 26-1-2.1, remove the goods from the real estate, free and clear of all conflicting interests of all owners and encumbrancers of the real estate, but the lessor or lessee must reimburse any encumbrancer or owner of the real estate who is not the lessee and who has not otherwise agreed for the cost of repair of any physical injury, but not for any diminution

in value of the real estate caused by the absence of the goods removed or by any necessity of replacing them. A person entitled to reimbursement may refuse permission to remove until the party seeking removal gives adequate security for the performance of this obligation.

(9) Even though the lease agreement does not create a security interest, the interest of a lessor of fixtures, including the lessor's residual interest, is perfected by filing a financing statement as a fixture filing for leased goods that are or are to become fixtures in accordance with the relevant provisions of ~~IC 26-1-9~~: **IC 26-1-9.1**.

SECTION 27. IC 26-1-3.1-102 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 102. (a) IC 26-1-3.1 applies to negotiable instruments. It does not apply to money, to payment orders governed by IC 26-1-4.1, or to securities governed by IC 26-1-8.1.

(b) If there is conflict between IC 26-1-3.1 and IC 26-1-4 or ~~IC 26-1-9~~ **IC 26-1-9.1**, IC 26-1-4, and ~~IC 26-1-9~~ **IC 26-1-9.1** govern.

(c) Regulations of the Board of Governors of the Federal Reserve System and operating circulars of the Federal Reserve Banks supersede any inconsistent provision of IC 26-1-3.1 to the extent of the inconsistency.

SECTION 28. IC 26-1-3.1-605 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 605. (a) In this section, the term "endorser" includes a drawer having the obligation described in IC 26-1-3.1-414(d).

(b) Discharge, under IC 26-1-3.1-604, of the obligation of a party to pay an instrument does not discharge the obligation of an endorser or accommodation party having a right of recourse against the discharged party.

(c) If a person entitled to enforce an instrument agrees, with or without consideration, to an extension of the due date of the obligation of a party to pay the instrument, the extension discharges an endorser or accommodation party having a right of recourse against the party whose obligation is extended to the extent the endorser or accommodation party proves that the extension caused loss to the endorser or accommodation party with respect to the right of recourse.

(d) If a person entitled to enforce an instrument agrees, with or without consideration, to a material modification of the obligation of a party other than an extension of the due date, the modification

discharges the obligation of an endorser or accommodation party having a right of recourse against the person whose obligation is modified to the extent the modification causes loss to the endorser or accommodation party with respect to the right of recourse. The loss suffered by the endorser or accommodation party as a result of the modification is equal to the amount of the right of recourse unless the person enforcing the instrument proves that no loss was caused by the modification or that the loss caused by the modification was an amount less than the amount of the right of recourse.

(e) If the obligation of a party to pay an instrument is secured by an interest in collateral and a person entitled to enforce the instrument impairs the value of the interest in collateral, the obligation of an endorser or accommodation party having a right of recourse against the obligor is discharged to the extent of the impairment. The value of an interest in collateral is impaired to the extent:

- (1) the value of the interest is reduced to an amount less than the amount of the right of recourse of the party asserting discharge;
- or
- (2) the reduction in value of the interest causes an increase in the amount by which the amount of the right of recourse exceeds the value of the interest.

The burden of proving impairment is on the party asserting discharge.

(f) If the obligation of a party is secured by an interest in collateral not provided by an accommodation party and a person entitled to enforce the instrument impairs the value of the interest in collateral, the obligation of any party who is jointly and severally liable with respect to the secured obligation is discharged to the extent the impairment causes the party asserting discharge to pay more than that party would have been obliged to pay, taking into account rights of contribution, if impairment had not occurred. If the party asserting discharge is an accommodation party not entitled to discharge under subsection (e), the party is considered to have a right to contribution based on joint and several liability rather than a right to reimbursement. The burden of proving impairment is on the party asserting discharge.

(g) Under subsection (e) or (f), impairing value of an interest in collateral includes:

- (1) failure to obtain or maintain perfection or recordation of the interest in collateral;

- (2) release of collateral without substitution of collateral of equal value;
- (3) failure to perform a duty to preserve the value of collateral owed, under ~~IC 26-1-9~~ **IC 26-1-9.1** or other law, to a debtor or surety or other person secondarily liable; or
- (4) failure to comply with applicable law in disposing of collateral.

(h) An accommodation party is not discharged under subsection (c), (d), or (e) unless the person entitled to enforce the instrument knows of the accommodation or has notice under IC 26-1-3.1-419(c) that the instrument was signed for accommodation.

(i) A party is not discharged under this section if:

- (1) the party asserting discharge consents to the event or conduct that is the basis of the discharge; or
- (2) the instrument or a separate agreement of the party provides for waiver of discharge under this section either specifically or by general language indicating that parties waive defenses based on suretyship or impairment of collateral.

SECTION 29. IC 26-1-4-210 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 210. (a) A collecting bank has a security interest in an item and any accompanying documents or the proceeds of either:

- (1) in the case of an item deposited in an account, to the extent to which credit given for the item has been withdrawn or applied;
- (2) in the case of an item for which it has given credit available for withdrawal as of right, to the extent of the credit given, whether or not the credit is drawn upon or there is a right of charge-back; or
- (3) if it makes an advance on or against the item.

(b) If credit given for several items received at one (1) time or under a single agreement is withdrawn or applied in part, the security interest remains upon all the items, any accompanying documents, or the proceeds of either. For the purpose of this section, credits first given are first withdrawn.

(c) Receipt by a collecting bank of a final settlement for an item is a realization on its security interest in the item, accompanying documents, and proceeds. So long as the bank does not receive final settlement for the item or give up possession of the item or

accompanying documents for purposes other than collection, the security interest continues to that extent and is subject to IC 26-1-9, but:

- (1) no security agreement is necessary to make the security interest enforceable (~~IC 26-1-9-203(1)(a)~~); **(IC 26-1-9.1-203(b)(3)(A))**;
- (2) no filing is required to perfect the security interest; and
- (3) the security interest has priority over conflicting perfected security interests in the item, accompanying documents, or proceeds.

SECTION 30. IC 26-1-5.1-114 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 114. (a) In this section, "proceeds of a letter of credit" means the cash, check, accepted draft, or other item of value paid or delivered upon honor or giving of value by the issuer or any nominated person under the letter of credit. The term does not include a beneficiary's drawing rights or documents presented by the beneficiary.

(b) A beneficiary may assign its right to part or all of the proceeds of a letter of credit. The beneficiary may do so before presentation as a present assignment of its right to receive proceeds contingent upon its compliance with the terms and conditions of the letter of credit.

(c) An issuer or nominated person need not recognize an assignment of proceeds of a letter of credit until it consents to the assignment.

(d) An issuer or nominated person has no obligation to give or withhold its consent to an assignment of proceeds of a letter of credit, but consent may not be unreasonably withheld if the assignee possesses and exhibits the letter of credit and presentation of the letter of credit is a condition to honor.

(e) Rights of a transferee beneficiary or nominated person are independent of the beneficiary's assignment of the proceeds of a letter of credit and are superior to the assignee's right to the proceeds.

(f) Neither the rights recognized by this section between an assignee and an issuer, transferee beneficiary, or nominated person nor the issuer's or nominated person's payment of proceeds to an assignee or a third person affects the rights between the assignee and any person other than the issuer, transferee beneficiary, or nominated person. The mode of creating and perfecting a security interest in or granting an assignment of a beneficiary's rights to proceeds is governed by

~~IC 26-1-9~~ **IC 26-1-9.1** or other law. Against persons other than the issuer, transferee beneficiary, or nominated person, the rights and obligations arising upon the creation of a security interest or other assignment of a beneficiary's right to proceeds and its perfection are governed by ~~IC 26-1-9~~ **IC 26-1-9.1** or other law.

SECTION 31. IC 26-1-5.1-116 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 116. (a) The liability of an issuer, nominated person, or adviser for action or omission is governed by the law of the jurisdiction chosen by an agreement in the form of a record signed or otherwise authenticated by the affected parties in the manner provided in IC 26-1-5.1-104 or by a provision in the person's letter of credit, confirmation, or other undertaking. The jurisdiction whose law is chosen need not bear any relation to the transaction.

(b) Unless subsection (a) applies, the liability of an issuer, nominated person, or adviser for action or omission is governed by the law of the jurisdiction in which the person is located. The person is considered to be located at the address indicated in the person's undertaking. If more than one (1) address is indicated, the person is considered to be located at the address from which the person's undertaking was issued. For the purpose of jurisdiction, choice of law, and recognition of interbranch letters of credit, but not enforcement of a judgment, all branches of a bank are considered separate juridical entities and a bank is considered to be located at the place where its relevant branch is considered to be located under this subsection.

(c) Except as otherwise provided in this subsection, the liability of an issuer, nominated person, or adviser is governed by any rules of custom or practice, such as the Uniform Customs and Practice for Documentary Credits, to which the letter of credit, confirmation, or other undertaking is expressly made subject. If:

- (i) IC 26-1-5.1 would govern the liability of an issuer, nominated person, or adviser under subsection (a) or (b);
- (ii) the relevant undertaking incorporates rules of custom or practice; and
- (iii) there is conflict between IC 26-1-5.1 and those rules as applied to that undertaking;

those rules govern except to the extent of any conflict with the nonvariable provisions specified in IC 26-1-5.1-103(c).

(d) If there is conflict between IC 26-1-5.1 and IC 26-1-3.1, IC 26-1-4, IC 26-1-4.1, or ~~IC 26-1-9~~ **IC 26-1-9.1**, IC 26-1-5.1 governs.

(e) The forum for settling disputes arising out of an undertaking within IC 26-1-5.1 may be chosen in the manner and with the binding effect that governing law may be chosen in accordance with subsection (a).

SECTION 32. IC 26-1-5.1-118 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 118. (a) An issuer or nominated person has a security interest in a document presented under a letter of credit to the extent that the issuer or nominated person honors or gives value for the presentation.**

(b) So long as and to the extent that an issuer or nominated person has not been reimbursed or has not otherwise recovered the value given with respect to a security interest in a document under subsection (a), the security interest continues and is subject to IC 26-1-9.1, but:

- (1) a security agreement is not necessary to make the security interest enforceable under IC 26-1-9.1-203(b)(3);**
- (2) if the document is presented in a medium other than a written or other tangible medium, the security interest is perfected; and**
- (3) if the document is presented in a written or other tangible medium and is not a certificated security, chattel paper, a document of title, an instrument, or a letter of credit, the security interest is perfected and has priority over a conflicting security interest in the document so long as the debtor does not have possession of the document.**

SECTION 33. IC 26-1-6.1-102, AS AMENDED BY P.L.154-1999, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 102. (1) In this chapter, unless the context otherwise requires:**

- (a) "Assets" means the inventory that is the subject of a bulk sale and any tangible and intangible personal property used or held for use primarily in, or arising from, the seller's business and sold in connection with that inventory, but the term does not include:**
 - (i) fixtures ~~(IC 26-1-9-313(1)(a)) (IC 26-1-9.1-102(a)(41))~~ other than readily removable factory and office machines;**

- (ii) the lessee's interest in a lease of real property; or
 - (iii) property to the extent it is generally exempt from creditor process under nonbankruptcy law.
- (b) "Auctioneer" means a person whom the seller engages to direct, conduct, control, or be responsible for a sale by auction.
- (c) "Bulk sale" means:
- (i) in the case of a sale by auction or a sale or series of sales conducted by a liquidator on the seller's behalf, a sale or series of sales not in the ordinary course of the seller's business of more than half of the seller's inventory, as measured by value on the date of the bulk-sale agreement, if on that date the auctioneer or liquidator has notice, or after reasonable inquiry would have had notice, that the seller will not continue to operate the same or a similar kind of business after the sale or series of sales; and
 - (ii) in all other cases, a sale not in the ordinary course of the seller's business of more than half the seller's inventory, as measured by value on the date of the bulk-sale agreement, if on that date the buyer has notice, or after reasonable inquiry would have had notice, that the seller will not continue to operate the same or a similar kind of business after the sale.
- (d) "Claim" means a right to payment from the seller, whether or not the right is reduced to judgment, liquidated, fixed, matured, disputed, secured, legal, or equitable. The term includes costs of collection and attorney's fees only to the extent that the laws of this state permit the holder of the claim to recover them in an action against the obligor.
- (e) "Claimant" means a person holding a claim incurred in the seller's business other than:
- (i) an unsecured and unmatured claim for employment compensation and benefits, including commissions and vacation, severance, and sick-leave pay; and
 - (ii) a claim for injury to an individual or to property, or for breach of warranty, unless:
 - (A) a right of action for the claim has accrued;
 - (B) the claim has been asserted against the seller; and
 - (C) the seller knows the identity of the person asserting the claim and the basis upon which the person has asserted it.

- (f) "Creditor" means a claimant or other person holding a claim.
- (g) (i) "Date of the bulk sale" means:
- (A) if the sale is by auction or is conducted by a liquidator on the seller's behalf, the date on which more than ten percent (10%) of the net proceeds is paid to or for the benefit of the seller; and
 - (B) in all other cases, the later of the date on which:
 - (I) more than ten percent (10%) of the net contract price is paid to or for the benefit of the seller; or
 - (II) more than ten percent (10%) of the assets, as measured by value, are transferred to the buyer.
- (ii) For purposes of this subsection:
- (A) delivery of a negotiable instrument (IC 26-1-3.1-104(a)(1)) to or for the benefit of the seller in exchange for assets constitutes payment of the contract price pro tanto;
 - (B) to the extent that the contract price is deposited in an escrow, the contract price is paid to or for the benefit of the seller when the seller acquires the unconditional right to receive the deposit or when the deposit is delivered to the seller or for the benefit of the seller, whichever is earlier; and
 - (C) an asset is transferred when a person holding an unsecured claim can no longer obtain through judicial proceedings rights to the asset that are superior to those of the buyer arising as a result of the bulk sale. A person holding an unsecured claim can obtain those superior rights to a tangible asset at least until the buyer has an unconditional right, under the bulk-sale agreement, to possess the asset, and a person holding an unsecured claim can obtain those superior rights to an intangible asset at least until the buyer has an unconditional right, under the bulk-sale agreement, to use the asset.
- (h) "Date of the bulk-sale agreement" means:
- (i) in the case of a sale by auction or conducted by a liquidator (subsection (c)(i)), the date on which the seller engages the auctioneer or liquidator; and
 - (ii) in all other cases, the date on which a bulk-sale agreement

becomes enforceable between the buyer and the seller.

- (i) "Debt" means liability on a claim.
- (j) "Liquidator" means a person who is regularly engaged in the business of disposing of assets for businesses contemplating liquidation or dissolution.
- (k) "Net contract price" means the new consideration the buyer is obligated to pay for the assets less:
 - (i) the amount of any proceeds of the sale of an asset, to the extent the proceeds are applied in partial or total satisfaction of a debt secured by the asset; and
 - (ii) the amount of any debt to the extent it is secured by a security interest or lien that is enforceable against the asset before and after it has been sold to a buyer. If a debt is secured by an asset and other property of the seller, the amount of the debt secured by a security interest or lien that is enforceable against the asset is determined by multiplying the debt by a fraction, the numerator of which is the value of the new consideration for the asset on the date of the bulk sale and the denominator of which is the value of all property securing the debt on the date of the bulk sale.
- (l) "Net proceeds" means the new consideration received for assets sold at a sale by auction or a sale conducted by a liquidator on the seller's behalf less:
 - (i) commissions and reasonable expenses of the sale;
 - (ii) the amount of any proceeds of the sale of an asset, to the extent the proceeds are applied in partial or total satisfaction of a debt secured by the asset; and
 - (iii) the amount of any debt to the extent it is secured by a security interest or lien that is enforceable against the asset before and after it has been sold to a buyer. If a debt is secured by an asset and other property of the seller, the amount of the debt secured by a security interest or lien that is enforceable against the asset is determined by multiplying the debt by a fraction, the numerator of which is the value of the new consideration for the asset on the date of the bulk sale and the denominator of which is the value of all property securing the debt on the date of the bulk sale.
- (m) A sale is "in the ordinary course of the seller's business" if the

sale comports with usual or customary practices in the kind of business in which the seller is engaged or with the seller's own usual or customary practices.

(n) "United States" includes its territories and possessions and the Commonwealth of Puerto Rico.

(o) "Value" means fair market value.

(p) "Verified" means signed and sworn to or affirmed.

(2) The following definitions apply to this chapter:

(a) "Buyer." IC 26-1-2-103(1)(a).

(b) "Equipment." ~~IC 26-1-9-109(2)~~; **IC 26-1-9.1-102(a)(33)**.

(c) "Inventory." ~~IC 26-1-9-109(4)~~; **IC 26-1-9.1-102(a)(48)**.

(d) "Sale." IC 26-1-2-106(1).

(e) "Seller". IC 26-1-2-103(1)(d).

(3) In addition, IC 26-1-1 contains general definitions and principles of construction and interpretation applicable throughout this chapter.

SECTION 34. IC 26-1-6.1-103 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 103. (1) Except as otherwise provided in subsection (3), this chapter applies to a bulk sale if:

(a) the seller's principal business is the sale of inventory from stock; and

(b) on the date of the bulk-sale agreement the seller is located in Indiana or, if the seller is located in a jurisdiction that is not a part of the United States, the seller's major executive office in the United States is in Indiana.

(2) A seller is deemed to be located at the seller's place of business. If a seller has more than one (1) place of business, the seller is deemed located at the seller's chief executive office.

(3) This chapter does not apply to:

(a) a transfer made to secure payment or performance of an obligation;

(b) a transfer of collateral to a secured party pursuant to ~~IC 26-1-9-503~~; **IC 26-1-9.1-609**;

(c) a sale of collateral pursuant to ~~IC 26-1-9-504~~; **IC 26-1-9.1-610**;

(d) retention of collateral pursuant to ~~IC 26-1-9-505~~; **IC 26-1-9.1-620**;

(e) a sale of an asset encumbered by a security interest or lien if

- (i) all the proceeds of the sale are applied in partial or total satisfaction of the debt secured by the security interest or lien, or
- (ii) the security interest or lien is enforceable against the asset after it has been sold to the buyer and the net contract price is zero (0);
- (f) a general assignment for the benefit of creditors or to a subsequent transfer by the assignee;
- (g) a sale by an executor, administrator, receiver, trustee in bankruptcy, or any public officer under judicial process;
- (h) a sale made in the course of judicial or administrative proceedings for the dissolution or reorganization of an organization;
- (i) a sale to a buyer whose principal place of business is in the United States and who:
 - (i) not earlier than twenty-one (21) days before the date of the bulk sale, (A) obtains from the seller a verified and dated list of claimants of whom the seller has notice three (3) days before the seller sends or delivers the list to the buyer or (B) conducts a reasonable inquiry to discover the claimants;
 - (ii) assumes in full the debts owed to claimants of whom the buyer has knowledge on the date the buyer receives the list of claimants from the seller or on the date the buyer completes the reasonable inquiry, as the case may be;
 - (iii) is not insolvent after the assumption; and
 - (iv) gives written notice of the assumption not later than thirty (30) days after the date of the bulk sale by sending or delivering a notice to the claimants identified in subparagraph (ii) or by filing a notice in the office of the secretary of state;
- (j) a sale to a buyer whose principal place of business is in the United States and who:
 - (i) assumes in full the debts that were incurred in the seller's business before the date of the bulk sale;
 - (ii) is not insolvent after the assumption; and
 - (iii) gives written notice of the assumption not later than thirty (30) days after the date of the bulk sale by sending or delivering a notice to each creditor whose debt is assumed or by filing a notice in the office of the secretary of state;
- (k) a sale to a new organization that is organized to take over and

continue the business of the seller and that has its principal place of business in the United States if:

- (i) the buyer assumes in full the debts that were incurred in the seller's business before the date of the bulk sale;
 - (ii) the seller receives nothing from the sale except an interest in the new organization that is subordinate to the claims against the organization arising from the assumption; and
 - (iii) the buyer gives written notice of the assumption not later than thirty (30) days after the date of the bulk sale by sending or delivering a notice to each creditor whose debt is assumed or by filing a notice in the office of the secretary of state;
- (l) a sale of assets having:
- (i) a value, net of liens, and security interests of less than ten thousand dollars (\$10,000). If a debt is secured by assets and other property of the seller, the net value of the assets is determined by subtracting from their value an amount equal to the product of the debt multiplied by a fraction, the numerator of which is the value of the assets on the date of the bulk sale and the denominator of which is the value of all property securing the debt on the date of the bulk sale; or
 - (ii) a value of more than twenty-five million dollars (\$25,000,000);
- on the date of the bulk-sale agreement; or
- (m) a sale required by, and made pursuant to, statute.
- (4) The notice under subsection (3)(i)(iv) must state:
- (i) that a sale that may constitute a bulk sale has been or will be made;
 - (ii) the date or prospective date of the bulk sale;
 - (iii) the individual, partnership, or corporate names and the addresses of the seller and buyer;
 - (iv) the address to which inquiries about the sale may be made, if different from the seller's address; and
 - (v) that the buyer has assumed or will assume in full the debts owed to claimants of whom the buyer has knowledge on the date the buyer receives the list of claimants from the seller or completes a reasonable inquiry to discover the claimants.
- (5) The notice under subsections (3)(j)(iii) and (3)(k)(iii) must state:
- (i) that a sale that may constitute a bulk sale has been or will

- be made;
- (ii) the date or prospective date of the bulk sale;
- (iii) the individual, partnership, or corporate names and the addresses of the seller and buyer;
- (iv) the address to which inquiries about the sale may be made, if different from the seller's address; and
- (v) that the buyer has assumed or will assume the debts that were incurred in the seller's business before the date of the bulk sale.

(6) For purposes of subsection (3)(1), the value of assets is presumed to be equal to the price the buyer agrees to pay for the assets. However, in a sale by auction or a sale conducted by a liquidator on the seller's behalf, the value of assets is presumed to be the amount the auctioneer or liquidator reasonably estimates the assets will bring at auction or upon liquidation.

SECTION 35. IC 26-1-6.1-109 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 109. (1) Presentation of a notice or list of claimants for filing and tender of the filing fee or acceptance of the notice or list by the secretary of state constitutes filing under IC 26-1-6.1.

- (2) The secretary of state shall:
 - (a) mark each notice or list with a file number and with the date and hour of filing;
 - (b) hold the notice or list or a copy for public inspection;
 - (c) index the notice or list according to each name given for the seller and for the buyer; and
 - (d) note in the index the file number and the addresses of the seller and buyer given in the notice or list.

(3) If the person filing a notice or list furnishes the secretary of state with a copy, the secretary of state upon request shall note upon the copy the file number and date and hour of the filing of the original and send or deliver the copy to the person.

(4) The fee for filing and indexing and for stamping a copy furnished by the person filing to show the date and place of filing is set forth in ~~IC 26-1-9-401~~. **IC 26-1-9.1.**

(5) Upon request of any person, the secretary of state shall issue a certificate showing whether any notice or list with respect to a particular seller or buyer is on file on the date and hour stated in the

certificate. If a notice or list is on file, the certificate must give the date and hour of filing of each notice or list and the name and address of each seller, buyer, auctioneer, or liquidator. The fee for the certificate is set forth in IC 26-1-9-401. Upon request of any person, the secretary of state shall furnish a copy of any filed notice or list for the fee that is set forth in IC 26-1-9-401.

(6) The secretary of state shall keep each notice or list for two (2) years after it is filed.

SECTION 36. IC 26-1-7-209 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 209. (1) A warehouseman has a lien against the bailor on the goods covered by a warehouse receipt or on the proceeds thereof in his possession for charges for storage or transportation (including demurrage and terminal charges), insurance, labor, or charges present or future in relation to the goods, and for expenses necessary for preservation of the goods or reasonably incurred in their sale pursuant to law. If the person on whose account the goods are held is liable for like charges or expenses in relation to other goods whenever deposited and it is stated in the receipt that a lien is claimed for charges and expenses in relation to other goods, the warehouseman also has a lien against him for such charges and expenses whether or not the other goods have been delivered by the warehouseman. But against a person to whom a negotiable warehouse receipt is duly negotiated, a warehouseman's lien is limited to charges in an amount or at a rate specified on the receipt or if no charges are so specified then to a reasonable charge for storage of the goods covered by the receipt subsequent to the date of the receipt.

(2) The warehouseman may also reserve a security interest against the bailor for a maximum amount specified on the receipt for charges other than those specified in subsection (1), such as for money advanced and interest. Such a security interest is governed by ~~IC 26-1-9~~ **IC 26-1-9.1** on secured transactions.

(3) A warehouseman's lien for charges and expenses under subsection (1) or a security interest under subsection (2) is also effective against any person who so entrusted the bailor with possession of the goods that a pledge of them by him to a good faith purchaser for value would have been valid but is not effective against a person as to whom the document confers no right in the goods

covered by it under IC 26-1-7-503.

(4) A warehouseman loses his lien on any goods which he voluntarily delivers or which he unjustifiably refuses to deliver.

SECTION 37. IC 26-1-7-503 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 503. (1) A document of title confers no right in goods against a person who before issuance of the document had a legal interest or a perfected security interest in them and who neither:

- (a) delivered or entrusted them or any document of title covering them to the bailor or his nominee with actual or apparent authority to ship, store, or sell or with power to obtain delivery under IC 26-1-7-403 or with power of disposition under IC 26-1-2-403, ~~IC 26-1-9-307~~ **IC 26-1-9.1-320**, or other statute or rule of law; nor
- (b) acquiesced in the procurement by the bailor or his nominee of any document of title.

(2) Title to goods based upon an unaccepted delivery order is subject to the rights of anyone to whom a negotiable warehouse receipt or bill of lading covering the goods has been duly negotiated. Such a title may be defeated under IC 26-1-7-504 to the same extent as the rights of the issuer or a transferee from the issuer.

(3) Title to goods based upon a bill of lading issued to a freight forwarder is subject to the rights of anyone to whom a bill issued by the freight forwarder covering such goods has been duly negotiated, but delivery by the carrier in accordance with IC 26-1-7-401 through IC 26-1-7-404 pursuant to its own bill of lading discharges the carrier's obligation to deliver.

SECTION 38. IC 26-1-8.1-103 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 103. (a) A share or similar equity interest issued by a corporation, business trust, joint stock company, or similar entity is a security.

(b) An "investment company security" is a security. "Investment company security" means a share or similar equity interest issued by an entity that is registered as an investment company under the federal investment company laws, an interest in a unit investment trust that is so registered, or a face amount certificate issued by a face amount certificate company that is so registered. Investment company security does not include an insurance policy or endowment policy or annuity contract issued by an insurance company.

(c) An interest in a partnership or limited liability company is not a security unless it is dealt in or traded on securities exchanges or in securities markets, its terms expressly provide that it is a security governed by IC 26-1-8.1, or it is an investment company security. However, an interest in a partnership or limited liability company is a financial asset if it is held in a securities account.

(d) A writing that is a security certificate is governed by IC 26-1-8.1 and not by IC 26-1-3.1, even though it also meets the requirements of that article. However, a negotiable instrument governed by IC 26-1-3.1 is a financial asset if it is held in a securities account.

(e) An option or a similar obligation issued by a clearing corporation to its participants is not a security, but it is a financial asset.

(f) A commodity contract (as defined in ~~IC 26-1-9-115~~) **IC 26-1-9.1-102(a)(15)** is not a security or a financial asset.

SECTION 39. IC 26-1-8.1-105 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 105. (a) A person has notice of an adverse claim if:

- (1) the person knows of the adverse claim;
- (2) the person is aware of facts sufficient to indicate that there is a significant probability that the adverse claim exists and deliberately avoids information that would establish the existence of the adverse claim; or
- (3) the person has a duty, imposed by statute or regulation, to investigate whether an adverse claim exists, and the investigation so required would establish the existence of the adverse claim.

(b) Having knowledge that a financial asset or interest therein is or has been transferred by a representative imposes no duty of inquiry into the rightfulness of a transaction and is not notice of an adverse claim. However, a person who knows that a representative has transferred a financial asset or interest therein in a transaction that is, or whose proceeds are being used, for the individual benefit of the representative or otherwise in breach of duty has notice of an adverse claim.

(c) An act or event that creates a right to immediate performance of the principal obligation represented by a security certificate or sets a date on or after which the certificate is to be presented or surrendered for redemption or exchange does not itself constitute notice of an adverse claim except in the case of a transfer more than:

- (1) one (1) year after a date set for presentment or surrender for

redemption or exchange; or

(2) six (6) months after a date set for payment of money against presentation or surrender of the certificate, if money was available for payment on that date.

(d) A purchaser of a certificated security has notice of an adverse claim if the security certificate:

(1) whether in bearer or registered form, has been endorsed "for collection" or "for surrender" or for some other purpose not involving transfer; or

(2) is in bearer form and has on it an unambiguous statement that it is the property of a person other than the transferor, but the mere writing of a name on the certificate is not such a statement.

(e) Filing of a financing statement under ~~IC 26-1-9~~ **IC 26-1-9.1** is not notice of an adverse claim to a financial asset.

SECTION 40. IC 26-1-8.1-106 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 106. (a) A purchaser has "control" of a certificated security in bearer form if the certificated security is delivered to the purchaser.

(b) A purchaser has "control" of a certificated security in registered form if the certificated security is delivered to the purchaser, and:

(1) the certificate is endorsed to the purchaser or in blank by an effective endorsement; or

(2) the certificate is registered in the name of the purchaser, upon original issue or registration of transfer by the issuer.

(c) A purchaser has "control" of an uncertificated security if:

(1) the uncertificated security is delivered to the purchaser; or

(2) the issuer has agreed that it will comply with instructions originated by the purchaser without further consent by the registered owner.

(d) A purchaser has "control" of a security entitlement if:

(1) the purchaser becomes the entitlement holder; ~~or~~

(2) the securities intermediary has agreed that it will comply with entitlement orders originated by the purchaser without further consent by the entitlement holder; ~~or~~

(3) another person has control of the security entitlement on behalf of the purchaser or, having previously acquired control of the security entitlement, acknowledges that it has control on behalf of the purchaser.

(e) If an interest in a security entitlement is granted by the entitlement holder to the entitlement holder's own securities intermediary, the securities intermediary has control.

(f) A purchaser who has satisfied the requirements of subsection ~~(c)(2)~~ (c) or ~~(d)(2)~~ (d) has control even if the registered owner in the case of subsection ~~(c)(2)~~ (c) or the entitlement holder in the case of subsection ~~(d)(2)~~ (d) retains the right to make substitutions for the uncertificated security or security entitlement, to originate instructions or entitlement orders to the issuer or a securities intermediary, or otherwise to deal with the uncertificated security or security entitlement.

(g) An issuer or a securities intermediary may not enter into an agreement of the kind described in subsection (c)(2) or (d)(2) without the consent of the registered owner or entitlement holder, but an issuer or a securities intermediary is not required to enter into such an agreement even though the registered owner or entitlement holder so directs. An issuer or securities intermediary that has entered into such an agreement is not required to confirm the existence of the agreement to another party unless requested to do so by the registered owner or entitlement holder.

SECTION 41. IC 26-1-8.1-110 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 110. (a) The local law of the issuer's jurisdiction, as specified in subsection (d), governs:

- (1) the validity of a security;
- (2) the rights and duties of the issuer with respect to registration of transfer;
- (3) the effectiveness of registration of transfer by the issuer;
- (4) whether the issuer owes any duties to an adverse claimant to a security; and
- (5) whether an adverse claim can be asserted against a person to whom transfer of a certificated or uncertificated security is registered or a person who obtains control of an uncertificated security.

(b) The local law of the securities intermediary's jurisdiction, as specified in subsection (e), governs:

- (1) acquisition of a security entitlement from the securities intermediary;
- (2) the rights and duties of the securities intermediary and

entitlement holder arising out of a security entitlement;

(3) whether the securities intermediary owes any duties to an adverse claimant to a security entitlement; and

(4) whether an adverse claim can be asserted against a person who acquires a security entitlement from the securities intermediary or a person who purchases a security entitlement or interest therein from an entitlement holder.

(c) The local law of the jurisdiction in which a security certificate is located at the time of delivery governs whether an adverse claim can be asserted against a person to whom the security certificate is delivered.

(d) "Issuer's jurisdiction" means the jurisdiction under which the issuer of the security is organized or, if permitted by the law of that jurisdiction, the law of another jurisdiction specified by the issuer. An issuer organized under the law of this state may specify the law of another jurisdiction as the law governing the matters specified in subsection (a)(2) through (a)(5).

(e) The following rules determine a "securities intermediary's jurisdiction" for purposes of this section:

(1) If an agreement between the securities intermediary and its entitlement holder ~~specifies that it is governed by the law of a particular jurisdiction;~~ **governing the securities account expressly provides that a particular jurisdiction is the securities intermediary's jurisdiction for purposes of IC 26-1-8.1-101 through IC 26-1-8.1-116,** that jurisdiction is the securities intermediary's jurisdiction.

(2) **If subdivision (1) does not apply, and an agreement between the securities intermediary and its entitlement holder expressly provides that the agreement is governed by the law of a particular jurisdiction, that jurisdiction is the securities intermediary's jurisdiction.**

(3) **If neither subdivision (1) nor subdivision (2) applies, and an agreement between the securities intermediary and its entitlement holder does not specify the governing law as provided in subdivision (1); but governing the securities account expressly ~~specifies~~ provides that the securities account is maintained at an office in a particular jurisdiction, that jurisdiction is the securities intermediary's jurisdiction.**

~~(3)~~ (4) If an agreement between the securities intermediary and its entitlement holder does not specify a jurisdiction as provided in subdivision (1) or (2), **none of the preceding subdivisions apply**, the securities intermediary's jurisdiction is the jurisdiction in which is ~~located~~ the office identified in an account statement as the office serving the entitlement holder's account **is located**.

~~(4)~~ (5) If an agreement between the securities intermediary and its entitlement holder does not specify a jurisdiction as provided in subdivision (1) or (2) and an account statement does not identify an office serving the entitlement holder's account as provided in subdivision (3), **none of the preceding subdivisions apply**, the securities intermediary's jurisdiction is the jurisdiction in which is ~~located~~ the chief executive office of the securities intermediary **is located**.

(f) A securities intermediary's jurisdiction is not determined by the physical location of certificates representing financial assets, or by the jurisdiction in which is organized the issuer of the financial asset with respect to which an entitlement holder has a security entitlement, or by the location of facilities for data processing or other record keeping concerning the account.

SECTION 42. IC 26-1-8.1-301 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 301. (a) Delivery of a certificated security to a purchaser occurs when:

- (1) the purchaser acquires possession of the security certificate;
- (2) another person, other than a securities intermediary, either acquires possession of the security certificate on behalf of the purchaser or, having previously acquired possession of the certificate, acknowledges that it holds for the purchaser; or
- (3) a securities intermediary acting on behalf of the purchaser acquires possession of the security certificate, only if the certificate is in registered form and ~~has been~~ **is (i) registered in the name of the purchaser, (ii) payable to the order of the purchaser, or (iii) specially endorsed to the purchaser by an effective endorsement and has not been endorsed to the securities intermediary or in blank.**

(b) Delivery of an uncertificated security to a purchaser occurs when:

- (1) the issuer registers the purchaser as the registered owner, upon

original issue or registration of transfer; or

(2) another person, other than a securities intermediary, either becomes the registered owner of the uncertificated security on behalf of the purchaser or, having previously become the registered owner, acknowledges that it holds for the purchaser.

SECTION 43. IC 26-1-8.1-302 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 302. (a) Except as otherwise provided in subsections (b) and (c), ~~upon delivery a purchaser~~ of a certificated or uncertificated security ~~to a purchaser, the purchaser~~ acquires all rights in the security that the transferor had or had power to transfer.

(b) A purchaser of a limited interest acquires rights only to the extent of the interest purchased.

(c) A purchaser of a certificated security who as a previous holder had notice of an adverse claim does not improve its position by taking from a protected purchaser.

SECTION 44. IC 26-1-8.1-510 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 510. (a) **In a case not covered by the priority rules in IC 26-1-9.1 or the rules stated in subsection (c)**, an action based on an adverse claim to a financial asset or security entitlement, whether framed in conversion, replevin, constructive trust, equitable lien, or other theory, may not be asserted against a person who purchases a security entitlement, or an interest therein, from an entitlement holder if the purchaser gives value, does not have notice of the adverse claim, and obtains control.

(b) If an adverse claim could not have been asserted against an entitlement holder under IC 26-1-8.1-502, the adverse claim cannot be asserted against a person who purchases a security entitlement, or an interest therein, from the entitlement holder.

(c) In a case not covered by the priority rules in ~~IC 26-1-9;~~ **IC 26-1-9.1**, a purchaser for value of a security entitlement, or an interest therein, who obtains control has priority over a purchaser of a security entitlement, or an interest therein, who does not obtain control. **Except as otherwise provided in subsection (d)**, purchasers who have control rank ~~equally, except that according to priority in time of:~~

(1) the purchaser's becoming the person for whom the securities account, in which the security entitlement is carried, is maintained, if the purchaser obtained control under

IC 26-1-8.1-106(d)(1);

(2) the securities intermediary's agreement to comply with the purchaser's entitlement orders with respect to security entitlements carried or to be carried in the securities account in which the security entitlement is carried, if the purchaser obtained control under IC 26-1-8.1-106(d)(2); or

(3) if the purchaser obtained control through another person under IC 26-1-8.1-106(d)(3), the time on which priority would be based under this subsection if the other person were the secured party.

(d) A securities intermediary as purchaser has priority over a conflicting purchaser who has control unless otherwise agreed by the securities intermediary.

SECTION 45. IC 26-1-9.1 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]:

Chapter 9.1. Secured Transactions

Sec. 101. IC 26-1-9.1 may be cited as **Uniform Commercial Code—Secured Transactions.**

Sec. 102. (a) In IC 26-1-9.1:

(1) "Accession" means goods that are physically united with other goods in such a manner that the identity of the original goods is not lost.

(2) "Account", except as used in "account for", means a right to payment of a monetary obligation, whether or not earned by performance (i) for property that has been or is to be sold, leased, licensed, assigned, or otherwise disposed of, (ii) for services rendered or to be rendered, (iii) for a policy of insurance issued or to be issued, (iv) for a secondary obligation incurred or to be incurred, (v) for energy provided or to be provided, (vi) for the use or hire of a vessel under a charter or other contract, (vii) arising out of the use of a credit or charge card or information contained on or for use with the card, or (viii) as winnings in a lottery or other game of chance operated or sponsored by a state, governmental unit of a state, or person licensed or authorized to operate the game by a state or governmental unit of a state. The term includes health-care-insurance receivables. The term does not include (i) rights to payment evidenced by chattel paper or an

instrument, (ii) commercial tort claims, (iii) deposit accounts, (iv) investment property, (v) letter-of-credit rights or letters of credit, or (vi) rights to payment for money or funds advanced or sold, other than rights arising out of the use of a credit or charge card or information contained on or for use with the card.

(3) "Account debtor" means a person obligated on an account, chattel paper, or general intangible. The term does not include persons obligated to pay a negotiable instrument, even if the instrument constitutes part of chattel paper.

(4) "Accounting", except as used in "accounting for", means a record:

(A) authenticated by a secured party;

(B) indicating the aggregate unpaid secured obligations as of a date not more than thirty-five (35) days earlier or thirty-five (35) days later than the date of the record; and

(C) identifying the components of the obligations in reasonable detail.

(5) "Agricultural lien" means an interest, other than a security interest, in farm products:

(A) that secures payment or performance of an obligation for:

(i) goods or services furnished in connection with a debtor's farming operation; or

(ii) rent on real property leased by a debtor in connection with the debtor's farming operation;

(B) that is created by statute in favor of a person that:

(i) in the ordinary course of its business furnished goods or services to a debtor in connection with the debtor's farming operation; or

(ii) leased real property to a debtor in connection with the debtor's farming operation; and

(C) whose effectiveness does not depend on the person's possession of the personal property.

(6) "As-extracted collateral" means:

(A) oil, gas, or other minerals that are subject to a security interest that:

(i) is created by a debtor having an interest in the minerals before extraction; and

- (ii) attaches to the minerals as extracted; or
 - (B) accounts arising out of the sale at the wellhead or minehead of oil, gas, or other minerals in which the debtor had an interest before extraction.
- (7) "Authenticate" means:
 - (A) to sign; or
 - (B) to execute or otherwise adopt a symbol, or encrypt or similarly process a record in whole or in part, with the present intent of the authenticating person to identify the person and adopt or accept a record.
- (8) "Bank" means an organization that is engaged in the business of banking. The term includes savings banks, savings and loan associations, credit unions, and trust companies.
- (9) "Cash proceeds" means proceeds that are money, checks, deposit accounts, or the like.
- (10) "Certificate of title" means a certificate of title with respect to which a statute provides for the security interest in question to be indicated on the certificate as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral.
- (11) "Chattel paper" means a record or records that evidence both a monetary obligation and a security interest in specific goods, a security interest in specific goods and software used in the goods, a security interest in specific goods and license of software used in the goods, a lease of specific goods, or a lease of specific goods and license of software used in the goods. In this subdivision, "monetary obligation" means a monetary obligation secured by the goods or owed under a lease of the goods and includes a monetary obligation with respect to software used in the goods. The term "chattel paper" does not include: (i) charters or other contracts involving the use or hire of a vessel; or (ii) records that evidence a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card. If a transaction is evidenced by records that include an instrument or series of instruments, the group of records taken together constitutes chattel paper.
- (12) "Collateral" means the property subject to a security interest or agricultural lien. The term includes:

- (A) proceeds to which a security interest attaches;
 - (B) accounts, chattel paper, payment intangibles, and promissory notes that have been sold; and
 - (C) goods that are the subject of a consignment.
- (13) "Commercial tort claim" means a claim arising in tort with respect to which:
- (A) the claimant is an organization; or
 - (B) the claimant is an individual and the claim:
 - (i) arose in the course of the claimant's business or profession; and
 - (ii) does not include damages arising out of personal injury to or the death of an individual.
- (14) "Commodity account" means an account maintained by a commodity intermediary in which a commodity contract is carried for a commodity customer.
- (15) "Commodity contract" means a commodity futures contract, an option on a commodity futures contract, a commodity option, or another contract if the contract or option is:
- (A) traded on or subject to the rules of a board of trade that has been designated as a contract market for such a contract pursuant to federal commodities laws; or
 - (B) traded on a foreign commodity board of trade, exchange, or market, and is carried on the books of a commodity intermediary for a commodity customer.
- (16) "Commodity customer" means a person for which a commodity intermediary carries a commodity contract on its books.
- (17) "Commodity intermediary" means a person that:
- (A) is registered as a futures commission merchant under federal commodities law; or
 - (B) in the ordinary course of its business provides clearance or settlement services for a board of trade that has been designated as a contract market pursuant to federal commodities law.
- (18) "Communicate" means:
- (A) to send a written or other tangible record;
 - (B) to transmit a record by any means agreed upon by the persons sending and receiving the record; or

- (C) in the case of transmission of a record to or by a filing office, to transmit a record by any means prescribed by filing-office rule.
- (19) "Consignee" means a merchant to which goods are delivered in a consignment.
- (20) "Consignment" means a transaction, regardless of its form, in which a person delivers goods to a merchant for the purpose of sale and:
- (A) the merchant:
 - (i) deals in goods of that kind under a name other than the name of the person making delivery;
 - (ii) is not an auctioneer; and
 - (iii) is not generally known by its creditors to be substantially engaged in selling the goods of others;
 - (B) with respect to each delivery, the aggregate value of the goods is one thousand dollars (\$1,000) or more at the time of delivery;
 - (C) the goods are not consumer goods immediately before delivery; and
 - (D) the transaction does not create a security interest that secures an obligation.
- (21) "Consignor" means a person that delivers goods to a consignee in a consignment.
- (22) "Consumer debtor" means a debtor in a consumer transaction.
- (23) "Consumer goods" means goods that are used or bought for use primarily for personal, family, or household purposes.
- (24) "Consumer-goods transaction" means a consumer transaction in which:
- (A) an individual incurs an obligation primarily for personal, family, or household purposes; and
 - (B) a security interest in consumer goods secures the obligation.
- (25) "Consumer obligor" means an obligor who is an individual and who incurred the obligation as part of a transaction entered into primarily for personal, family, or household purposes.
- (26) "Consumer transaction" means a transaction in which (i) an individual incurs an obligation primarily for personal,

family, or household purposes, (ii) a security interest secures the obligation, and (iii) the collateral is held or acquired primarily for personal, family, or household purposes. The term includes consumer-goods transactions.

(27) "Continuation statement" means an amendment of a financing statement that:

(A) identifies, by its file number, the initial financing statement to which it relates; and

(B) indicates that it is a continuation statement for, or that it is filed to continue the effectiveness of, the identified financing statement.

(28) "Debtor" means:

(A) a person having an interest, other than a security interest or other lien, in the collateral, whether or not the person is an obligor;

(B) a seller of accounts, chattel paper, payment intangibles, or promissory notes; or

(C) a consignee.

(29) "Deposit account" means a demand, time, savings, passbook, or similar account maintained with a bank. The term does not include investment property or accounts evidenced by an instrument.

(30) "Document" means a document of title or a receipt of the type described in IC 26-1-7-201(2).

(31) "Electronic chattel paper" means chattel paper evidenced by a record or records consisting of information stored in an electronic medium.

(32) "Encumbrance" means a right, other than an ownership interest, in real property. The term includes mortgages and other liens on real property.

(33) "Equipment" means goods other than inventory, farm products, or consumer goods.

(34) "Farm products" means goods, other than standing timber, with respect to which the debtor is engaged in a farming operation and which are:

(A) crops grown, growing, or to be grown, including:

(i) crops produced on trees, vines, and bushes; and

(ii) aquatic goods produced in aquacultural operations;

(B) livestock, born or unborn, including aquatic goods

produced in aquacultural operations;
(C) supplies used or produced in a farming operation; or
(D) products of crops or livestock in their unmanufactured states.

(35) "Farming operation" means raising, cultivating, propagating, fattening, grazing, or any other farming, livestock, or aquacultural operation.

(36) "File number" means the number assigned to an initial financing statement pursuant to IC 26-1-9.1-519(a).

(37) "Filing office" means an office designated in IC 26-1-9.1-501 as the place to file a financing statement.

(38) "Filing-office rule" means a rule adopted pursuant to IC 26-1-9.1-526.

(39) "Financing statement" means a record or records composed of an initial financing statement and any filed record relating to the initial financing statement.

(40) "Fixture filing" means the filing of a financing statement covering goods that are or are to become fixtures and satisfying IC 26-1-9.1-502(a) and IC 26-1-9.1-502(b). The term includes the filing of a financing statement covering goods of a transmitting utility which are or are to become fixtures.

(41) "Fixtures" means goods that have become so related to particular real property that an interest in them arises under real property law.

(42) "General intangible" means any personal property, including things in action, other than accounts, chattel paper, commercial tort claims, deposit accounts, documents, goods, instruments, investment property, letter-of-credit rights, letters of credit, money, and oil, gas, or other minerals before extraction. The term includes payment intangibles and software.

(43) "Good faith" means honesty in fact and the observance of reasonable commercial standards of fair dealing.

(44) "Goods" means all things that are movable when a security interest attaches. The term includes (i) fixtures, (ii) standing timber that is to be cut and removed under a conveyance or contract for sale, (iii) the unborn young of animals, (iv) crops grown, growing, or to be grown, even if the crops are produced on trees, vines, or bushes, and (v)

manufactured homes. The term also includes a computer program embedded in goods and any supporting information provided in connection with a transaction relating to the program if (i) the program is associated with the goods in such a manner that it customarily is considered part of the goods, or (ii) by becoming the owner of the goods, a person acquires a right to use the program in connection with the goods. The term does not include a computer program embedded in goods that consist solely of the medium in which the program is embedded. The term also does not include accounts, chattel paper, commercial tort claims, deposit accounts, documents, general intangibles, instruments, investment property, letter-of-credit rights, letters of credit, money, or oil, gas, or other minerals before extraction.

(45) "Governmental unit" means a subdivision, agency, department, county, parish, municipality, or other unit of the government of the United States, a state, or a foreign country. The term includes an organization having a separate corporate existence if the organization is eligible to issue debt on which interest is exempt from income taxation under the laws of the United States.

(46) "Health-care-insurance receivable" means an interest in or claim under a policy of insurance that is a right to payment of a monetary obligation for health-care goods or services provided.

(47) "Instrument" means a negotiable instrument or any other writing that evidences a right to the payment of a monetary obligation, is not itself a security agreement or lease, and is of a type that in the ordinary course of business is transferred by delivery with any necessary endorsement or assignment. The term does not include (i) investment property, (ii) letters of credit, or (iii) writings that evidence a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card.

(48) "Inventory" means goods, other than farm products, that:

(A) are leased by a person as lessor;

(B) are held by a person for sale or lease or to be furnished under a contract of service;

(C) are furnished by a person under a contract of service;
or

(D) consist of raw materials, work in process, or materials used or consumed in a business.

(49) "Investment property" means a security, whether certificated or uncertificated, security entitlement, securities account, commodity contract, or commodity account.

(50) "Jurisdiction of organization", with respect to a registered organization, means the jurisdiction under whose law the organization is organized.

(51) "Letter-of-credit right" means a right to payment or performance under a letter of credit, whether or not the beneficiary has demanded or is at the time entitled to demand payment or performance. The term does not include the right of a beneficiary to demand payment or performance under a letter of credit.

(52) "Lien creditor" means:

(A) a creditor that has acquired a lien on the property involved by attachment, levy, or the like;

(B) an assignee for benefit of creditors from the time of assignment;

(C) a trustee in bankruptcy from the date of the filing of the petition; or

(D) a receiver in equity from the time of appointment.

(53) "Manufactured home" means a structure, transportable in one (1) or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. The term includes any structure that meets all of the requirements of this subdivision except the size requirements, and with respect to which the manufacturer voluntarily files a certification required by the United States Secretary of Housing and Urban Development and complies with the standards established under Title 42 of the United States

Code.

(54) "Manufactured-home transaction" means a secured transaction:

(A) that creates a purchase-money security interest in a manufactured home, other than a manufactured home held as inventory; or

(B) in which a manufactured home, other than a manufactured home held as inventory, is the primary collateral.

(55) "Mortgage" means a consensual interest in real property, including fixtures, that secures payment or performance of an obligation.

(56) "New debtor" means a person that becomes bound as debtor under IC 26-1-9.1-203(d) by a security agreement previously entered into by another person.

(57) "New value" means (i) money, (ii) money's worth in property, services, or new credit, or (iii) release by a transferee of an interest in property previously transferred to the transferee. The term does not include an obligation substituted for another obligation.

(58) "Noncash proceeds" means proceeds other than cash proceeds.

(59) "Obligor" means a person that, with respect to an obligation secured by a security interest in or an agricultural lien on the collateral, (i) owes payment or other performance of the obligation, (ii) has provided property other than the collateral to secure payment or other performance of the obligation, or (iii) is otherwise accountable in whole or in part for payment or other performance of the obligation. The term does not include issuers or nominated persons under a letter of credit.

(60) "Original debtor", except as used in IC 26-1-9.1-310(c), means a person that, as debtor, entered into a security agreement to which a new debtor has become bound under IC 26-1-9.1-203(d).

(61) "Payment intangible" means a general intangible under which the account debtor's principal obligation is a monetary obligation.

(62) "Person related to", with respect to an individual, means:

- (A) the spouse of the individual;**
 - (B) a brother, brother-in-law, sister, or sister-in-law of the individual;**
 - (C) an ancestor or lineal descendant of the individual or the individual's spouse; or**
 - (D) any other relative, by blood or marriage, of the individual or the individual's spouse who shares the same home with the individual.**
- (63) "Person related to", with respect to an organization, means:**
- (A) a person directly or indirectly controlling, controlled by, or under common control with the organization;**
 - (B) an officer or director of, or a person performing similar functions with respect to, the organization;**
 - (C) an officer or director of, or a person performing similar functions with respect to, a person described in clause (A);**
 - (D) the spouse of an individual described in clause (A), (B), or (C); or**
 - (E) an individual who is related by blood or marriage to an individual described in clause (A), (B), (C), or (D) and shares the same home with the individual.**
- (64) "Proceeds", except as used in IC 26-1-9.1-609(b), means the following property:**
- (A) Whatever is acquired upon the sale, lease, license, exchange, or other disposition of collateral.**
 - (B) Whatever is collected on, or distributed on account of, collateral.**
 - (C) Rights arising out of collateral.**
 - (D) To the extent of the value of collateral, claims arising out of the loss, nonconformity, or interference with the use of, defects or infringement of rights in, or damage to, the collateral.**
 - (E) To the extent of the value of collateral and to the extent payable to the debtor or the secured party, insurance payable by reason of the loss or nonconformity of, defects or infringement of rights in, or damage to, the collateral.**
- (65) "Promissory note" means an instrument that evidences a promise to pay a monetary obligation, does not evidence an**

order to pay, and does not contain an acknowledgment by a bank that the bank has received for deposit a sum of money or funds.

(66) "Proposal" means a record authenticated by a secured party that includes the terms on which the secured party is willing to accept collateral in full or partial satisfaction of the obligation it secures pursuant to IC 26-1-9.1-620, IC 26-1-9.1-621, and IC 26-1-9.1-622.

(67) "Public-finance transaction" means a secured transaction in connection with which:

(A) debt securities are issued;

(B) all or a portion of the securities issued have an initial stated maturity of at least twenty (20) years; and

(C) the debtor, obligor, secured party, account debtor, or other person obligated on collateral, assignor or assignee of a secured obligation, or assignor or assignee of a security interest is a state or a governmental unit of a state.

(68) "Pursuant to commitment", with respect to an advance made or other value given by a secured party, means pursuant to the secured party's obligation, whether or not a subsequent event of default or other event not within the secured party's control has relieved or may relieve the secured party from its obligation.

(69) "Record", except as used in "for record", "of record", "record or legal title", and "record owner", means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(70) "Registered organization" means an organization organized solely under the law of a single state or the United States and as to which the state or the United States must maintain a public record showing the organization to have been organized.

(71) "Secondary obligor" means an obligor to the extent that:

(A) the obligor's obligation is secondary; or

(B) the obligor has a right of recourse with respect to an obligation secured by collateral against the debtor, another obligor, or property of either.

(72) "Secured party" means:

- (A) a person in whose favor a security interest is created or provided for under a security agreement, whether or not any obligation to be secured is outstanding;
 - (B) a person that holds an agricultural lien;
 - (C) a consignor;
 - (D) a person to which accounts, chattel paper, payment intangibles, or promissory notes have been sold;
 - (E) a trustee, indenture trustee, agent, collateral agent, or other representative in whose favor a security interest or agricultural lien is created or provided for; or
 - (F) a person that holds a security interest arising under IC 26-1-2-401, IC 26-1-2-505, IC 26-1-2-711(3), IC 26-1-2.1-508(5), IC 26-1-4-210, or IC 26-1-5.1-118.
- (73) "Security agreement" means an agreement that creates or provides for a security interest.
- (74) "Send", in connection with a record or notification, means:
- (A) to deposit in the mail, deliver for transmission, or transmit by any other usual means of communication, with postage or cost of transmission provided for, addressed to any address reasonable under the circumstances; or
 - (B) to cause the record or notification to be received within the time that it would have been received if properly sent under clause (A).
- (75) "Software" means a computer program and any supporting information provided in connection with a transaction relating to the program. The term does not include a computer program that is included in the definition of goods.
- (76) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.
- (77) "Supporting obligation" means a letter-of-credit right or secondary obligation that supports the payment or performance of an account, chattel paper, a document, a general intangible, an instrument, or investment property.
- (78) "Tangible chattel paper" means chattel paper evidenced by a record or records consisting of information that is

inscribed on a tangible medium.

(79) "Termination statement" means an amendment of a financing statement that:

- (A) identifies, by its file number, the initial financing statement to which it relates; and
- (B) indicates either that it is a termination statement or that the identified financing statement is no longer effective.

(80) "Transmitting utility" means a person primarily engaged in the business of:

- (A) operating a railroad, subway, street railway, or trolley bus;
- (B) transmitting communications electrically, electromagnetically, or by light;
- (C) transmitting goods by pipeline or sewer; or
- (D) transmitting or producing and transmitting electricity, steam, gas, or water.

(b) The following definitions outside IC 26-1-9.1 apply to IC 26-1-9.1:

- "Applicant" IC 26-1-5.1-102.
- "Beneficiary" IC 26-1-5.1-102.
- "Broker" IC 26-1-8.1-102.
- "Certificated security" IC 26-1-8.1-102.
- "Check" IC 26-1-3.1-104.
- "Clearing corporation" IC 26-1-8.1-102.
- "Contract for sale" IC 26-1-2-106.
- "Customer" IC 26-1-4-104.
- "Entitlement holder" IC 26-1-8.1-102.
- "Financial asset" IC 26-1-8.1-102.
- "Holder in due course" IC 26-1-3.1-302.
- "Issuer" (with respect to a letter of credit or letter-of-credit right) IC 26-1-5.1-102.
- "Issuer" (with respect to a security) IC 26-1-8.1-201.
- "Lease" IC 26-1-2.1-103.
- "Lease agreement" IC 26-1-2.1-103.
- "Lease contract" IC 26-1-2.1-103.
- "Leasehold interest" IC 26-1-2.1-103.
- "Lessee" IC 26-1-2.1-103.
- "Lessee in ordinary course of business" IC 26-1-2.1-103.

"Lessor" IC 26-1-2.1-103.
"Lessor's residual interest" IC 26-1-2.1-103.
"Letter of credit" IC 26-1-5.1-102.
"Merchant" IC 26-1-2-104.
"Negotiable instrument" IC 26-1-3.1-104.
"Nominated person" IC 26-1-5.1-102.
"Note" IC 26-1-3.1-104.
"Proceeds of a letter of credit" IC 26-1-5.1-114.
"Prove" IC 26-1-3.1-103.
"Sale" IC 26-1-2-106.
"Securities account" IC 26-1-8.1-501.
"Securities intermediary" IC 26-1-8.1-102.
"Security" IC 26-1-8.1-102.
"Security certificate" IC 26-1-8.1-102.
"Security entitlement" IC 26-1-8.1-102.
"Uncertificated security" IC 26-1-8.1-102.

(c) IC 26-1-1 contains general definitions and principles of construction and interpretation applicable throughout IC 26-1-9.1.

Sec. 103. (a) In this section:

- (1) "Purchase-money collateral" means goods or software that secures a purchase-money obligation incurred with respect to that collateral.
- (2) "Purchase-money obligation" means an obligation of an obligor incurred as all or part of the price of the collateral or for value given to enable the debtor to acquire rights in, or the use of the collateral if the value is in fact so used.

(b) A security interest in goods is a purchase-money security interest:

- (1) to the extent that the goods are purchase-money collateral with respect to that security interest;
- (2) if the security interest is in inventory that is or was purchase-money collateral, also to the extent that the security interest secures a purchase-money obligation incurred with respect to other inventory in which the secured party holds or held a purchase-money security interest; and
- (3) also to the extent that the security interest secures a purchase-money obligation incurred with respect to software in which the secured party holds or held a purchase-money security interest.

(c) A security interest in software is a purchase-money security interest to the extent that the security interest also secures a purchase-money obligation incurred with respect to goods in which the secured party holds or held a purchase-money security interest if:

(1) the debtor acquired its interest in the software in an integrated transaction in which it acquired an interest in the goods; and

(2) the debtor acquired its interest in the software for the principal purpose of using the software in the goods.

(d) The security interest of a consignor in goods that are the subject of a consignment is a purchase-money security interest in inventory.

(e) If the extent to which a security interest is a purchase-money security interest depends on the application of a payment to a particular obligation, the payment must be applied:

(1) in accordance with any reasonable method of application to which the parties agree;

(2) in the absence of the parties' agreement to a reasonable method, in accordance with any intention of the obligor manifested at or before the time of payment; or

(3) in the absence of an agreement to a reasonable method and a timely manifestation of the obligor's intention, in the following order:

(A) To obligations that are not secured.

(B) If more than one (1) obligation is secured, to obligations secured by purchase-money security interests in the order in which those obligations were incurred.

(f) A purchase-money security interest does not lose its status as such, even if:

(1) the purchase-money collateral also secures an obligation that is not a purchase-money obligation;

(2) collateral that is not purchase-money collateral also secures the purchase-money obligation; or

(3) the purchase-money obligation has been renewed, refinanced, consolidated, or restructured.

(g) A secured party claiming a purchase-money security interest has the burden of establishing the extent to which the security interest is a purchase-money security interest.

Sec. 104. (a) A secured party has control of a deposit account if:

- (1) the secured party is the bank with which the deposit account is maintained;**
- (2) the debtor, secured party, and bank have agreed in an authenticated record that the bank will comply with instructions originated by the secured party directing disposition of the funds in the account without further consent by the debtor; or**
- (3) the secured party becomes the bank's customer with respect to the deposit account.**

(b) A secured party that has satisfied subsection (a) has control, even if the debtor retains the right to direct the disposition of funds from the deposit account.

Sec. 105. A secured party has control of electronic chattel paper if the record or records comprising the chattel paper are created, stored, and assigned in such a manner that:

- (1) a single authoritative copy of the record or records exists which is unique, identifiable and, except as otherwise provided in subdivisions (4), (5), and (6), unalterable;**
- (2) the authoritative copy identifies the secured party as the assignee of the record or records;**
- (3) the authoritative copy is communicated to and maintained by the secured party or its designated custodian;**
- (4) copies or revisions that add or change an identified assignee of the authoritative copy can be made only with the participation of the secured party;**
- (5) each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and**
- (6) any revision of the authoritative copy is readily identifiable as an authorized or unauthorized revision.**

Sec. 106. (a) A person has control of a certificated security, uncertificated security, or security entitlement as provided in IC 26-1-8.1-106.

(b) A secured party has control of a commodity contract if:

- (1) the secured party is the commodity intermediary with which the commodity contract is carried; or**
- (2) the commodity customer, secured party, and commodity intermediary have agreed that the commodity intermediary**

will apply any value distributed on account of the commodity contract as directed by the secured party without further consent by the commodity customer.

(c) A secured party having control of all security entitlements or commodity contracts carried in a securities account or commodity account has control over the securities account or commodity account.

Sec. 107. A secured party has control of a letter-of-credit right to the extent of any right to payment or performance by the issuer or any nominated person if the issuer or nominated person has consented to an assignment of proceeds of the letter of credit under IC 26-1-5.1-114(c) or otherwise applicable law or practice.

Sec. 108. (a) Except as otherwise provided in subsections (c), (d), and (e), a description of personal or real property is sufficient, whether or not it is specific, if it reasonably identifies what is described.

(b) Except as otherwise provided in subsection (d), a description of collateral reasonably identifies the collateral if it identifies the collateral by:

- (1) specific listing;
- (2) category;
- (3) except as otherwise provided in subsection (e), a type of collateral defined in IC 26-1;
- (4) quantity;
- (5) computational or allocational formula or procedure; or
- (6) except as otherwise provided in subsection (c), any other method, if the identity of the collateral is objectively determinable.

(c) A description of collateral as "all the debtor's assets" or "all the debtor's personal property" or using words of similar import does not reasonably identify the collateral.

(d) Except as otherwise provided in subsection (e), a description of a security entitlement, securities account, or commodity account is sufficient if it describes:

- (1) the collateral by those terms or as investment property; or
- (2) the underlying financial asset or commodity contract.

(e) A description only by type of collateral defined in IC 26-1 is an insufficient description of:

- (1) a commercial tort claim; or

(2) in a consumer transaction, consumer goods, a security entitlement, a securities account, or a commodity account.

Sec. 109. (a) Except as otherwise provided in subsections (c) and (d), IC 26-1-9.1 applies to:

- (1) a transaction, regardless of its form, that creates a security interest in personal property or fixtures by contract;
- (2) an agricultural lien;
- (3) a sale of accounts, chattel paper, payment intangibles, or promissory notes;
- (4) a consignment;
- (5) a security interest arising under IC 26-1-2-401, IC 26-1-2-505, IC 26-1-2-711(3), or IC 26-1-2.1-508(5), as provided in IC 26-1-9.1-110;
- (6) a security interest arising under IC 26-1-4-210 or IC 26-1-5.1-118; and
- (7) a transfer of an interest or a claim in a contractual right of a person to receive commissions or other compensation payable by an insurer (as defined in IC 27-1-2-3).

(b) The application of IC 26-1-9.1 to a security interest in a secured obligation is not affected by the fact that the obligation is itself secured by a transaction or interest to which IC 26-1-9.1 does not apply.

(c) IC 26-1-9.1 does not apply to the extent that:

- (1) a statute, regulation, or treaty of the United States preempts IC 26-1-9.1; or
- (2) the rights of a transferee beneficiary or nominated person under a letter of credit are independent and superior under IC 26-1-5.1-114.

(d) IC 26-1-9.1 does not apply to:

- (1) a landlord's lien, other than an agricultural lien;
- (2) a lien, other than an agricultural lien, given by statute or other rule of law for services or materials, but IC 26-1-9.1-333 applies with respect to priority of the lien;
- (3) an assignment of a claim for wages, salary, or other compensation of an employee;
- (4) a sale of accounts, chattel paper, payment intangibles, or promissory notes as part of a sale of the business out of which they arose;
- (5) an assignment of accounts, chattel paper, payment

intangibles, or promissory notes that is for the purpose of collection only;

(6) an assignment of a right to payment under a contract to an assignee that is also obligated to perform under the contract;

(7) an assignment of a single account, payment intangible, or promissory note to an assignee in full or partial satisfaction of a preexisting indebtedness;

(8) a transfer of an interest in or an assignment of a claim under a policy of insurance, other than a transfer described in subsection (a)(7), or an assignment by or to a health-care provider of a health-care-insurance receivable and any subsequent assignment of the right to payment, but IC 26-1-9.1-315 and IC 26-1-9.1-322 apply with respect to proceeds and priorities in proceeds;

(9) an assignment of a right represented by a judgment, other than a judgment taken on a right to payment that was collateral;

(10) a right of recoupment or set-off, but:

(A) IC 26-1-9.1-340 applies with respect to the effectiveness of rights of recoupment or set-off against deposit accounts; and

(B) IC 26-1-9.1-404 applies with respect to defenses or claims of an account debtor;

(11) the creation or transfer of an interest in or lien on real property, including a lease or rents thereunder, except to the extent that provision is made for:

(A) liens on real property in IC 26-1-9.1-203 and IC 26-1-9.1-308;

(B) fixtures in IC 26-1-9.1-334;

(C) fixture filings in IC 26-1-9.1-501, IC 26-1-9.1-502, IC 26-1-9.1-512, IC 26-1-9.1-516, and IC 26-1-9.1-519; and

(D) security agreements covering personal and real property in IC 26-1-9.1-604;

(12) an assignment of a claim arising in tort, other than a commercial tort claim, but IC 26-1-9.1-315 and IC 26-1-9.1-322 apply with respect to proceeds and priorities in proceeds;

(13) an assignment of a deposit account in a consumer transaction, but IC 26-1-9.1-315 and IC 26-1-9.1-322 apply

- with respect to proceeds and priorities in proceeds;
- (14) the creation, perfection, priority, or enforcement of a security interest created by the state, another state, or a foreign country, or a governmental unit of the state, another state or a foreign country; or
- (15) a pledge of revenues, other money, or property made under IC 5-1-14-4.

Sec. 110. A security interest arising under IC 26-1-2-401, IC 26-1-2-505, IC 26-1-2-711(3), or IC 26-1-2.1-508(5) is subject to IC 26-1-9.1. However, until the debtor obtains possession of the goods:

- (1) the security interest is enforceable, even if IC 26-1-9.1-203(b)(3) has not been satisfied;
- (2) filing is not required to perfect the security interest;
- (3) the rights of the secured party after default by the debtor are governed by IC 26-1-2 or IC 26-1-2.1; and
- (4) the security interest has priority over a conflicting security interest created by the debtor.

Sec. 201. (a) Except as otherwise provided in IC 26-1, a security agreement is effective according to its terms between the parties, against purchasers of the collateral, and against creditors.

(b) A transaction subject to this article is subject to any applicable rule of law that establishes a different rule for consumers.

(c) In case of conflict between IC 26-1-9.1 and a rule of law, statute, or regulation described in subsection (b), the rule of law, statute, or regulation controls. Failure to comply with a statute or regulation described in subsection (b) has only the effect the statute or regulation specifies.

(d) IC 26-1-9.1 does not:

- (1) validate any rate, charge, agreement, or practice that violates a rule of law, statute, or regulation described in subsection (b); or
- (2) extend the application of the rule of law, statute, or regulation to a transaction not otherwise subject to it.

Sec. 202. Except as otherwise provided with respect to consignments or sales of accounts, chattel paper, payment intangibles, or promissory notes, the provisions of this article with regard to rights and obligations apply whether title to collateral is

in the secured party or the debtor.

Sec. 203. (a) A security interest attaches to collateral when it becomes enforceable against the debtor with respect to the collateral, unless an agreement expressly postpones the time of attachment.

(b) Except as otherwise provided in subsections (c) through (i), a security interest is enforceable against the debtor and third parties with respect to the collateral only if:

- (1)** value has been given;
- (2)** the debtor has rights in the collateral or the power to transfer rights in the collateral to a secured party; and
- (3)** one (1) of the following conditions is met:
 - (A)** The debtor has authenticated a security agreement that provides a description of the collateral and, if the security interest covers timber to be cut, a description of the land concerned.
 - (B)** The collateral is not a certificated security and is in the possession of the secured party under IC 26-1-9.1-313 pursuant to the debtor's security agreement.
 - (C)** The collateral is a certificated security in registered form and the security certificate has been delivered to the secured party under IC 26-1-8.1-301 pursuant to the debtor's security agreement.
 - (D)** The collateral is deposit accounts, electronic chattel paper, investment property, or letter-of-credit rights, and the secured party has control under IC 26-1-9.1-104, IC 26-1-9.1-105, IC 26-1-9.1-106, or IC 26-1-9.1-107 pursuant to the debtor's security agreement.

(c) Subsection (b) is subject to IC 26-1-4-210 on the security interest of a collecting bank, IC 26-1-5.1-118 on the security interest of a letter-of-credit issuer or nominated person, IC 26-1-9.1-110 on a security interest arising under IC 26-1-2 or IC 26-1-2.1, and IC 26-1-9.1-206 on security interests in investment property.

(d) A person becomes bound as debtor by a security agreement entered into by another person if, by operation of law other than IC 26-1-9.1 or by contract:

- (1)** the security agreement becomes effective to create a security interest in the person's property; or

(2) the person becomes generally obligated for the obligations of the other person, including the obligation secured under the security agreement, and acquires or succeeds to all or substantially all of the assets of the other person.

(e) If a new debtor becomes bound as debtor by a security agreement entered into by another person:

(1) the agreement satisfies subsection (b)(3) with respect to existing or after-acquired property of the new debtor to the extent the property is described in the agreement; and

(2) another agreement is not necessary to make a security interest in the property enforceable.

(f) The attachment of a security interest in collateral gives the secured party the rights to proceeds provided by IC 26-1-9-315 and is also attachment of a security interest in a supporting obligation for the collateral.

(g) The attachment of a security interest in a right to payment or performance secured by a security interest or other lien on personal or real property is also attachment of a security interest in the security interest, mortgage, or other lien.

(h) The attachment of a security interest in a securities account is also attachment of a security interest in the security entitlements carried in the securities account.

(i) The attachment of a security interest in a commodity account is also attachment of a security interest in the commodity contracts carried in the commodity account.

Sec. 204. (a) Except as otherwise provided in subsection (b), a security agreement may create or provide for a security interest in after-acquired collateral.

(b) A security interest does not attach under a term constituting an after-acquired property clause to:

(1) consumer goods, other than an accession when given as additional security, unless the debtor acquires rights in them within ten (10) days after the secured party gives value; or

(2) a commercial tort claim.

(c) A security agreement may provide that collateral secures, or that accounts, chattel paper, payment intangibles, or promissory notes are sold in connection with, future advances or other value, whether or not the advances or value are given pursuant to commitment.

Sec. 205. (a) A security interest is not invalid or fraudulent against creditors solely because:

- (1) the debtor has the right or ability to:**
 - (A) use, commingle, or dispose of all or part of the collateral, including returned or repossessed goods;**
 - (B) collect, compromise, enforce, or otherwise deal with collateral;**
 - (C) accept the return of collateral or make repossessions;**

or

 - (D) use, commingle, or dispose of proceeds; or**
- (2) the secured party fails to require the debtor to account for proceeds or replace collateral.**

(b) This section does not relax the requirements of possession if attachment, perfection, or enforcement of a security interest depends upon possession of the collateral by the secured party.

Sec. 206. (a) A security interest in favor of a securities intermediary attaches to a person's security entitlement if:

- (1) the person buys a financial asset through the securities intermediary in a transaction in which the person is obligated to pay the purchase price to the securities intermediary at the time of the purchase; and**
- (2) the securities intermediary credits the financial asset to the buyer's securities account before the buyer pays the securities intermediary.**

(b) The security interest described in subsection (a) secures the person's obligation to pay for the financial asset.

(c) A security interest in favor of a person that delivers a certificated security or other financial asset represented by a writing attaches to the security or other financial asset if:

- (1) the security or other financial asset:**
 - (A) in the ordinary course of business is transferred by delivery with any necessary endorsement or assignment;**

and

 - (B) is delivered under an agreement between persons in the business of dealing with such securities or financial assets;**

and
- (2) the agreement calls for delivery against payment.**

(d) The security interest described in subsection (c) secures the obligation to make payment for the delivery.

Sec. 207. (a) Except as otherwise provided in subsection (d), a secured party shall use reasonable care in the custody and preservation of collateral in the secured party's possession. In the case of chattel paper or an instrument, reasonable care includes taking necessary steps to preserve rights against prior parties unless otherwise agreed.

(b) Except as otherwise provided in subsection (d), if a secured party has possession of collateral:

- (1) reasonable expenses, including the cost of insurance and payment of taxes or other charges, incurred in the custody, preservation, use, or operation of the collateral are chargeable to the debtor and are secured by the collateral;**
- (2) the risk of accidental loss or damage is on the debtor to the extent of a deficiency in any effective insurance coverage;**
- (3) the secured party shall keep the collateral identifiable, but fungible collateral may be commingled; and**
- (4) the secured party may use or operate the collateral:
 - (A) for the purpose of preserving the collateral or its value;**
 - (B) as permitted by an order of a court having competent jurisdiction; or**
 - (C) except in the case of consumer goods, in the manner and to the extent agreed by the debtor.****

(c) Except as otherwise provided in subsection (d), a secured party having possession of collateral or control of collateral under IC 26-1-9.1-104, IC 26-1-9.1-105, IC 26-1-9.1-106, or IC 26-1-9.1-107:

- (1) may hold as additional security any proceeds, except money or funds, received from the collateral;**
- (2) shall apply money or funds received from the collateral to reduce the secured obligation, unless remitted to the debtor; and**
- (3) may create a security interest in the collateral.**

(d) If the secured party is a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a consignor:

- (1) subsection (a) does not apply unless the secured party is entitled under an agreement:
 - (A) to charge back uncollected collateral; or**
 - (B) otherwise to full or limited recourse against the debtor or a secondary obligor based on the nonpayment or other****

default of an account debtor or other obligor on the collateral; and

(2) subsections (b) and (c) do not apply.

Sec. 208. (a) This section applies to cases in which there is no outstanding secured obligation, and the secured party is not committed to make advances, incur obligations, or otherwise give value.

(b) Within ten (10) days after receiving an authenticated demand by the debtor:

(1) a secured party having control of a deposit account under IC 26-1-9.1-104(a)(2) shall send to the bank with which the deposit account is maintained an authenticated statement that releases the bank from any further obligation to comply with instructions originated by the secured party;

(2) a secured party having control of a deposit account under IC 26-1-9.1-104(a)(3) shall:

(A) pay the debtor the balance on deposit in the deposit account; or

(B) transfer the balance on deposit into a deposit account in the debtor's name;

(3) a secured party, other than a buyer, having control of electronic chattel paper under IC 26-1-9.1-105 shall:

(A) communicate the authoritative copy of the electronic chattel paper to the debtor or its designated custodian;

(B) if the debtor designates a custodian that is the designated custodian with which the authoritative copy of the electronic chattel paper is maintained for the secured party, communicate to the custodian an authenticated record releasing the designated custodian from any further obligation to comply with instructions originated by the secured party and instructing the custodian to comply with instructions originated by the debtor; and

(C) take appropriate action to enable the debtor or its designated custodian to make copies of or revisions to the authoritative copy that add or change an identified assignee of the authoritative copy without the consent of the secured party;

(4) a secured party having control of investment property under IC 26-1-8.1-106(d)(2) or IC 26-1-9.1-106(b) shall send

to the securities intermediary or commodity intermediary with which the security entitlement or commodity contract is maintained an authenticated record that releases the securities intermediary or commodity intermediary from any further obligation to comply with entitlement orders or directions originated by the secured party; and

(5) a secured party having control of a letter-of-credit right under IC 26-1-9.1-107 shall send to each person having an unfulfilled obligation to pay or deliver proceeds of the letter of credit to the secured party an authenticated release from any further obligation to pay or deliver proceeds of the letter of credit to the secured party.

Sec. 209. (a) Except as otherwise provided in subsection (c), this section applies if:

- (1) there is no outstanding secured obligation; and
- (2) the secured party is not committed to make advances, incur obligations, or otherwise give value.

(b) Within ten (10) days after receiving an authenticated demand by the debtor, a secured party shall send to an account debtor that has received notification of an assignment to the secured party as assignee under IC 26-1-9.1-406(a) an authenticated record that releases the account debtor from any further obligation to the secured party.

(c) This section does not apply to an assignment constituting the sale of an account, chattel paper, or payment intangible.

Sec. 210. (a) In this section the following definitions apply:

- (1) "Request" means a record of a type described in subdivision (2), (3), or (4).
- (2) "Request for an accounting" means a record authenticated by a debtor requesting that the recipient provide an accounting of the unpaid obligations secured by collateral and reasonably identifying the transaction or relationship that is the subject of the request.
- (3) "Request regarding a list of collateral" means a record authenticated by a debtor requesting that the recipient approve or correct a list of what the debtor believes to be the collateral securing an obligation and reasonably identifying the transaction or relationship that is the subject of the request.

(4) "Request regarding a statement of account" means a record authenticated by a debtor requesting that the recipient approve or correct a statement indicating what the debtor believes to be the aggregate amount of unpaid obligations secured by collateral as of a specified date and reasonably identifying the transaction or relationship that is the subject of the request.

(b) Subject to subsections (c), (d), (e), and (f), a secured party, other than a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a consignor, shall comply with a request within fourteen (14) days after receipt:

- (1) in the case of a request for an accounting, by authenticating and sending to the debtor an accounting; and**
- (2) in the case of a request regarding a list of collateral or a request regarding a statement of account, by authenticating and sending to the debtor an approval or correction.**

(c) A secured party that claims a security interest in all of a particular type of collateral owned by the debtor may comply with a request regarding a list of collateral by sending to the debtor an authenticated record, including a statement to that effect within fourteen (14) days after receipt.

(d) A person that receives a request regarding a list of collateral, claims no interest in the collateral when it receives the request, and claimed an interest in the collateral at an earlier time shall comply with the request within fourteen (14) days after receipt by sending to the debtor an authenticated record:

- (1) disclaiming any interest in the collateral; and**
- (2) if known to the recipient, providing the name and mailing address of any assignee of or successor to the recipient's interest in the collateral.**

(e) A person that receives a request for an accounting or a request regarding a statement of account, claims no interest in the obligations when the person receives the request, and claimed an interest in the obligations at an earlier time shall comply with the request within fourteen (14) days after receipt by sending to the debtor an authenticated record:

- (1) disclaiming any interest in the obligations; and**
- (2) if known to the recipient, providing the name and mailing address of any assignee of or successor to the recipient's**

interest in the obligations.

(f) A debtor is entitled without charge to one (1) response to a request under this section during any six (6) month period. The secured party may require payment of a charge not exceeding twenty-five dollars (\$25) for each additional response.

Sec. 301. Except as otherwise provided in IC 26-1-9.1-303 through IC 26-1-9.1-306, the following rules determine the law governing perfection, the effect of perfection or nonperfection, and the priority of a security interest in collateral:

(1) Except as otherwise provided in this section, while a debtor is located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in collateral.

(2) While collateral is located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a possessory security interest in that collateral.

(3) Except as otherwise provided in subdivision (4), while negotiable documents, goods, instruments, money, or tangible chattel paper is located in a jurisdiction, the local law of that jurisdiction governs:

(A) perfection of a security interest in the goods by filing a fixture filing;

(B) perfection of a security interest in timber to be cut; and

(C) the effect of perfection or nonperfection and the priority of a nonpossessory security interest in the collateral.

(4) The local law of the jurisdiction in which the wellhead or minehead is located governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in as-extracted collateral.

Sec. 302. While farm products are located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of an agricultural lien on the farm products.

Sec. 303. (a) This section applies to goods covered by a certificate of title, even if there is no other relationship between the jurisdiction under whose certificate of title the goods are covered

and the goods or the debtor.

(b) Goods become covered by a certificate of title when a valid application for the certificate of title and the applicable fee are delivered to the appropriate authority. Goods cease to be covered by a certificate of title at the earlier of the time the certificate of title ceases to be effective under the law of the issuing jurisdiction or the time the goods become covered subsequently by a certificate of title issued by another jurisdiction.

(c) The local law of the jurisdiction under whose certificate of title the goods are covered governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in goods covered by a certificate of title from the time the goods become covered by the certificate of title until the goods cease to be covered by the certificate of title.

Sec. 304. (a) The local law of a bank's jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a deposit account maintained with that bank.

(b) The following rules determine a bank's jurisdiction for purposes of this part:

(1) If an agreement between the bank and the debtor governing the deposit account expressly provides that a particular jurisdiction is the bank's jurisdiction for purposes of IC 26-1, that jurisdiction is the bank's jurisdiction.

(2) If subdivision (1) does not apply and an agreement between the bank and its customer governing the deposit account expressly provides that the agreement is governed by the law of a particular jurisdiction, that jurisdiction is the bank's jurisdiction.

(3) If neither subdivision (1) nor subdivision (2) applies, and an agreement between the bank and its customer governing the deposit account expressly provides that the deposit account is maintained at an office in a particular jurisdiction, that jurisdiction is the bank's jurisdiction.

(4) If none of the preceding subdivisions apply, the bank's jurisdiction is the jurisdiction in which the office identified in an account statement as the office serving the customer's account is located.

(5) If none of the preceding subdivisions apply, the bank's

jurisdiction is the jurisdiction in which the chief executive office of the bank is located.

Sec. 305. (a) Except as otherwise provided in subsection (c), the following rules apply:

(1) While a security certificate is located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in the certificated security represented thereby.

(2) The local law of the issuer's jurisdiction as specified in IC 26-1-8.1-110(d) governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in an uncertificated security.

(3) The local law of the securities intermediary's jurisdiction as specified in IC 26-1-8.1-110(e) governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a security entitlement or securities account.

(4) The local law of the commodity intermediary's jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a commodity contract or commodity account.

(b) The following rules determine a commodity intermediary's jurisdiction for purposes of this part:

(1) If an agreement between the commodity intermediary and commodity customer governing the commodity account expressly provides that a particular jurisdiction is the commodity intermediary's jurisdiction for purposes of IC 26-1, that jurisdiction is the commodity intermediary's jurisdiction.

(2) If subdivision (1) does not apply, and an agreement between the commodity intermediary and commodity customer governing the commodity account expressly provides that the agreement is governed by the law of a particular jurisdiction, that jurisdiction is the commodity intermediary's jurisdiction.

(3) If neither subdivision (1) nor subdivision (2) applies, and an agreement between the commodity intermediary and commodity customer governing the commodity account expressly provides that the commodity account is maintained at an office in a particular jurisdiction, that jurisdiction is the

commodity intermediary's jurisdiction.

(4) If none of the preceding subdivisions apply, the commodity intermediary's jurisdiction is the jurisdiction in which the office identified in an account statement as the office serving the commodity customer's account is located.

(5) If none of the preceding subdivisions apply, the commodity intermediary's jurisdiction is the jurisdiction in which the chief executive office of the commodity intermediary is located.

(c) The local law of the jurisdiction in which the debtor is located governs:

(1) perfection of a security interest in investment property by filing;

(2) automatic perfection of a security interest in investment property created by a broker or securities intermediary; and

(3) automatic perfection of a security interest in a commodity contract or commodity account created by a commodity intermediary.

Sec. 306. (a) Subject to subsection (c), the local law of the issuer's jurisdiction or a nominated person's jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a letter-of-credit right if the issuer's jurisdiction or nominated person's jurisdiction is a state.

(b) For purposes of this part, an issuer's jurisdiction or nominated person's jurisdiction is the jurisdiction whose law governs the liability of the issuer or nominated person with respect to the letter-of-credit right as provided in IC 26-1-5.1-116.

(c) This section does not apply to a security interest that is perfected only under IC 26-1-9.1-308(d).

Sec. 307. (a) In this section, "place of business" means a place where a debtor conducts its affairs.

(b) Except as otherwise provided in this section, the following rules determine a debtor's location:

(1) A debtor who is an individual is located at the individual's principal residence.

(2) A debtor that is an organization and has only one (1) place of business is located at its place of business.

(3) A debtor that is an organization and has more than one (1) place of business is located at its chief executive office.

(c) Subsection (b) applies only if a debtor's residence, place of business, or chief executive office, as applicable, is located in a jurisdiction whose law generally requires information concerning the existence of a nonpossessory security interest to be made generally available in a filing, recording, or registration system as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral. If subsection (b) does not apply, the debtor is located in the District of Columbia.

(d) A person that ceases to exist, have a residence, or have a place of business continues to be located in the jurisdiction specified by subsections (b) and (c).

(e) A registered organization that is organized under the law of a state is located in that state.

(f) Except as otherwise provided in subsection (i), a registered organization that is organized under the law of the United States and a branch or agency of a bank that is not organized under the law of the United States or a state are located:

(1) in the state that the law of the United States designates, if the law designates a state of location;

(2) in the state that the registered organization, branch, or agency designates, if the law of the United States authorizes the registered organization, branch, or agency to designate its state of location; or

(3) in the District of Columbia, if neither paragraph (1) nor paragraph (2) applies.

(g) A registered organization continues to be located in the jurisdiction specified by subsection (e) or (f) notwithstanding:

(1) the suspension, revocation, forfeiture, or lapse of the registered organization's status as such in its jurisdiction of organization; or

(2) the dissolution, winding up, or cancellation of the existence of the registered organization.

(h) The United States is located in the District of Columbia.

(i) A branch or agency of a bank that is not organized under the law of the United States or a state is located in the state in which the branch or agency is licensed, if all branches and agencies of the bank are licensed in only one state.

(j) A foreign air carrier under the Federal Aviation Act of 1958,

as amended, is located at the designated office of the agent upon which service of process may be made on behalf of the carrier.

(k) This section applies only for purposes of this part.

Sec. 308. (a) Except as otherwise provided in this section and IC 26-1-9.1-309, a security interest is perfected if it has attached and all of the applicable requirements for perfection in IC 26-1-9.1-310 through IC 26-1-9.1-316 have been satisfied. A security interest is perfected when it attaches if the applicable requirements are satisfied before the security interest attaches.

(b) An agricultural lien is perfected if it has become effective and all of the applicable requirements for perfection in IC 26-1-9.1-310 have been satisfied. An agricultural lien is perfected when it becomes effective if the applicable requirements are satisfied before the agricultural lien becomes effective.

(c) A security interest or agricultural lien is perfected continuously if it is originally perfected by one method under IC 26-1-9.1 and is later perfected by another method under IC 26-1-9.1, without an intermediate period when it was unperfected.

(d) Perfection of a security interest in collateral also perfects a security interest in a supporting obligation for the collateral.

(e) Perfection of a security interest in a right to payment or performance also perfects a security interest in a security interest, mortgage, or other lien on personal or real property securing the right.

(f) Perfection of a security interest in a securities account also perfects a security interest in the security entitlements carried in the securities account.

(g) Perfection of a security interest in a commodity account also perfects a security interest in the commodity contracts carried in the commodity account.

Sec. 309. The following security interests are perfected when they attach:

(1) A purchase-money security interest in consumer goods, except as otherwise provided in IC 26-1-9.1-311(b) with respect to consumer goods that are subject to a statute or treaty described in IC 26-1-9.1-311(a).

(2) An assignment of accounts or payment intangibles which does not by itself or in conjunction with other assignments to

the same assignee transfer a significant part of the assignor's outstanding accounts or payment intangibles.

(3) A sale of a payment intangible.

(4) A sale of a promissory note.

(5) A security interest created by the assignment of a health-care-insurance receivable to the provider of the health-care goods or services.

(6) A security interest arising under IC 26-1-2-401, IC 26-1-2-505, IC 26-1-2-711(3), or IC 26-1-2.1-508(5), until the debtor obtains possession of the collateral.

(7) A security interest of a collecting bank arising under IC 26-1-4-210.

(8) A security interest of an issuer or nominated person arising under IC 26-1-5.1-118.

(9) A security interest arising in the delivery of a financial asset under IC 26-1-9.1-206(c).

(10) A security interest in investment property created by a broker or securities intermediary.

(11) A security interest in a commodity contract or a commodity account created by a commodity intermediary.

(12) An assignment for the benefit of all creditors of the transferor and subsequent transfers by the assignee thereunder.

(13) A security interest created by an assignment of a beneficial interest in a decedent's estate.

Sec. 310. (a) Except as otherwise provided in subsection (b) and IC 26-1-9.1-312(b), a financing statement must be filed to perfect all security interests and agricultural liens.

(b) The filing of a financing statement is not necessary to perfect a security interest:

(1) that is perfected under IC 26-1-9.1-308(d), IC 26-1-9.1-308(e), IC 26-1-9.1-308(f), or IC 26-1-9.1-308(g);

(2) that is perfected under IC 26-1-9.1-309 when it attaches;

(3) in property subject to a statute, regulation, or treaty described in IC 26-1-9.1-311(a);

(4) in goods in possession of a bailee that are perfected under IC 26-1-9.1-312(d)(1) or IC 26-1-9.1-312(d)(2);

(5) in certificated securities, documents, goods, or instruments which is perfected without filing or possession under

- IC 26-1-9.1-312(e), IC 26-1-9.1-312(f), or IC 26-1-9.1-312(g);
- (6) in collateral in the secured party's possession under IC 26-1-9.1-313;
- (7) in a certificated security which is perfected by delivery of the security certificate to the secured party under IC 26-1-9.1-313;
- (8) in deposit accounts, electronic chattel paper, investment property, or letter-of-credit rights which is perfected by control under IC 26-1-9.1-314;
- (9) in proceeds which is perfected under IC 26-1-9.1-315; or
- (10) that is perfected under IC 26-1-9.1-316.

(c) If a secured party assigns a perfected security interest or agricultural lien, a filing under IC 26-1-9.1 is not required to continue the perfected status of the security interest against creditors of and transferees from the original debtor.

Sec. 311. (a) Except as otherwise provided in subsection (d), the filing of a financing statement is not necessary or effective to perfect a security interest in property subject to:

- (1) a statute, regulation, or treaty of the United States whose requirements for a security interest's obtaining priority over the rights of a lien creditor with respect to the property preempt IC 26-1-9.1-310(a);
- (2) any Indiana certificate-of-title statute covering automobiles, trailers, mobile homes, boats, farm tractors, or the like, which provides for a security interest to be indicated on the certificate as a condition or result of perfection; or
- (3) a certificate-of-title statute of another jurisdiction which provides for a security interest to be indicated on the certificate as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the property.

(b) Compliance with the requirements of a statute, regulation, or treaty described in subsection (a) for obtaining priority over the rights of a lien creditor is equivalent to the filing of a financing statement under IC 26-1-9.1. Except as otherwise provided in subsection (d), IC 26-1-9.1-313, IC 26-1-9.1-316(d), and IC 26-1-9.1-316(e) for goods covered by a certificate of title, a security interest in property subject to a statute, regulation, or treaty described in subsection (a) may be perfected only by

compliance with those requirements, and a security interest so perfected remains perfected notwithstanding a change in the use or transfer of possession of the collateral.

(c) Except as otherwise provided in subsection (d), IC 26-1-9.1-316(d), and IC 26-1-9.1-316(e), duration and renewal of perfection of a security interest perfected by compliance with the requirements prescribed by a statute, regulation, or treaty described in subsection (a) are governed by the statute, regulation, or treaty. In other respects, the security interest is subject to IC 26-1-9.1.

(d) During any period in which collateral, subject to a statute specified in subsection (a)(2), is inventory held for sale or lease by a person or leased by that person as lessor, and that person is in the business of selling goods of that kind, this section does not apply to a security interest in that collateral created by that person, but instead, the filing provisions of IC 26-1-9.1-501 through IC 26-1-9.1-527 apply.

Sec. 312. (a) A security interest in chattel paper, negotiable documents, instruments, or investment property may be perfected by filing.

(b) Except as otherwise provided in IC 26-1-9.1-315(c) and IC 26-1-9.1-315(d), for proceeds:

(1) a security interest in a deposit account may be perfected only by control under IC 26-1-9.1-314;

(2) and except as otherwise provided in IC 26-1-9.1-308(d), a security interest in a letter-of-credit right may be perfected only by control under IC 26-1-9.1-314; and

(3) a security interest in money may be perfected only by the secured party's taking possession under IC 26-1-9.1-313.

(c) While goods are in the possession of a bailee that has issued a negotiable document covering the goods:

(1) a security interest in the goods may be perfected by perfecting a security interest in the document; and

(2) a security interest perfected in the document has priority over any security interest that becomes perfected in the goods by another method during that time.

(d) While goods are in the possession of a bailee that has issued a nonnegotiable document covering the goods, a security interest in the goods may be perfected by:

- (1) issuance of a document in the name of the secured party;
- (2) the bailee's receipt of notification of the secured party's interest; or
- (3) filing as to the goods.

(e) A security interest in certificated securities, negotiable documents, or instruments is perfected without filing or the taking of possession for a period of twenty (20) days from the time it attaches to the extent that it arises for new value given under an authenticated security agreement.

(f) A perfected security interest in a negotiable document or goods in possession of a bailee, other than one that has issued a negotiable document for the goods, remains perfected for twenty (20) days without filing if the secured party makes available to the debtor the goods or documents representing the goods for the purpose of:

- (1) ultimate sale or exchange; or
- (2) loading, unloading, storing, shipping, transshipping, manufacturing, processing, or otherwise dealing with them in a manner preliminary to their sale or exchange.

(g) A perfected security interest in a certificated security or instrument remains perfected for twenty (20) days without filing if the secured party delivers the security certificate or instrument to the debtor for the purpose of:

- (1) ultimate sale or exchange; or
- (2) presentation, collection, enforcement, renewal, or registration of transfer.

(h) After the twenty (20) day period specified in subsection (e), (f), or (g) expires, perfection depends upon compliance with IC 26-1-9.1.

Sec. 313. (a) Except as otherwise provided in subsection (b), a secured party may perfect a security interest in negotiable documents, goods, instruments, money, or tangible chattel paper by taking possession of the collateral. A secured party may perfect a security interest in certificated securities by taking delivery of the certificated securities under IC 26-1-8.1-301.

(b) With respect to goods covered by a certificate of title issued by this state, a secured party may perfect a security interest in the goods by taking possession of the goods only in the circumstances described in IC 26-1-9.1-316(e).

(c) With respect to collateral other than certificated securities and goods covered by a document, a secured party takes possession of collateral in the possession of a person other than the debtor, the secured party, or a lessee of the collateral from the debtor in the ordinary course of the debtor's business, when:

(1) the person in possession authenticates a record acknowledging that it holds possession of the collateral for the secured party's benefit; or

(2) the person takes possession of the collateral after having authenticated a record acknowledging that it will hold possession of collateral for the secured party's benefit.

(d) If perfection of a security interest depends upon possession of the collateral by a secured party, perfection occurs not earlier than the time the secured party takes possession and continues only while the secured party retains possession.

(e) A security interest in a certificated security in registered form is perfected by delivery when delivery of the certificated security occurs under IC 26-1-8.1-301 and remains perfected by delivery until the debtor obtains possession of the security certificate.

(f) A person in possession of collateral is not required to acknowledge that it holds possession for a secured party's benefit.

(g) If a person acknowledges that it holds possession for the secured party's benefit:

(1) the acknowledgment is effective under subsection (c) or IC 26-1-8.1-301(a), even if the acknowledgment violates the rights of a debtor; and

(2) unless the person otherwise agrees or a law other than IC 26-1-9.1 otherwise provides, the person does not owe any duty to the secured party and is not required to confirm the acknowledgment to another person.

(h) A secured party having possession of collateral does not relinquish possession by delivering the collateral to a person other than the debtor or a lessee of the collateral from the debtor in the ordinary course of the debtor's business if the person was instructed before the delivery or is instructed contemporaneously with the delivery:

(1) to hold possession of the collateral for the secured party's benefit; or

(2) to redeliver the collateral to the secured party.

(i) A secured party does not relinquish possession, even if a delivery under subsection (h) violates the rights of a debtor. A person to which collateral is delivered under subsection (h) does not owe any duty to the secured party and is not required to confirm the delivery to another person unless the person otherwise agrees or law other than IC 26-1-9.1 otherwise provides.

Sec. 314. (a) A security interest in investment property, deposit accounts, letter-of-credit rights, or electronic chattel paper may be perfected by control of the collateral under IC 26-1-9.1-104, IC 26-1-9.1-105, IC 26-1-9.1-106, or IC 26-1-9.1-107.

(b) A security interest in deposit accounts, electronic chattel paper, or letter-of-credit rights is perfected by control under IC 26-1-9.1-104, IC 26-1-9.1-105, or IC 26-1-9.1-107 when the secured party obtains control and remains perfected by control only while the secured party retains control.

(c) A security interest in investment property is perfected by control under IC 26-1-9.1-106 from the time the secured party obtains control and remains perfected by control until:

(1) the secured party does not have control; and

(2) one of the following occurs:

(A) if the collateral is a certificated security, the debtor has or acquires possession of the security certificate;

(B) if the collateral is an uncertificated security, the issuer has registered or registers the debtor as the registered owner; or

(C) if the collateral is a security entitlement, the debtor is or becomes the entitlement holder.

Sec. 315. (a) Except as otherwise provided in IC 26-1-9.1 and in IC 26-1-2-403(2):

(1) a security interest or agricultural lien continues in collateral notwithstanding sale, lease, license, exchange, or other disposition thereof unless the secured party authorized the disposition free of the security interest or agricultural lien; and

(2) a security interest attaches to any identifiable proceeds of collateral.

(b) Proceeds that are commingled with other property are identifiable proceeds:

(1) if the proceeds are goods, to the extent provided by IC 26-1-9.1-336; and

(2) if the proceeds are not goods, to the extent that the secured party identifies the proceeds by a method of tracing, including application of equitable principles, that is permitted under law other than IC 26-1-9.1 with respect to commingled property of the type involved.

(c) A security interest in proceeds is a perfected security interest if the security interest in the original collateral was perfected.

(d) A perfected security interest in proceeds becomes unperfected on the twenty-first day after the security interest attaches to the proceeds unless:

(1) the following conditions are satisfied:

(A) A filed financing statement covers the original collateral.

(B) The proceeds are collateral in which a security interest may be perfected by filing in the office in which the financing statement has been filed.

(C) The proceeds are not acquired with cash proceeds.

(2) the proceeds are identifiable cash proceeds; or

(3) the security interest in the proceeds is perfected other than under subsection (c) when the security interest attaches to the proceeds or within twenty (20) days thereafter.

(e) If a filed financing statement covers the original collateral, a security interest in proceeds which remains perfected under subsection (d)(1) becomes unperfected at the later of:

(1) when the effectiveness of the filed financing statement lapses under IC 26-1-9.1-515 or is terminated under IC 26-1-9.1-513; or

(2) the twenty-first day after the security interest attaches to the proceeds.

Sec. 316. (a) A security interest perfected pursuant to the law of the jurisdiction designated in IC 26-1-9.1-301(1) or IC 26-1-9.1-305(c) remains perfected until the earliest of:

(1) the time perfection would have ceased under the law of that jurisdiction;

(2) the expiration of four (4) months after a change of the debtor's location to another jurisdiction; or

(3) the expiration of one (1) year after a transfer of collateral

to a person that thereby becomes a debtor and is located in another jurisdiction.

(b) If a security interest described in subsection (a) becomes perfected under the law of the other jurisdiction before the earliest time or event described in that subsection, it remains perfected thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earliest time or event, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

(c) A possessory security interest in collateral, other than goods covered by a certificate of title and as-extracted collateral consisting of goods, remains continuously perfected if:

- (1) the collateral is located in one (1) jurisdiction and subject to a security interest perfected under the law of that jurisdiction;
- (2) thereafter the collateral is brought into another jurisdiction; and
- (3) upon entry into the other jurisdiction, the security interest is perfected under the law of the other jurisdiction.

(d) Except as otherwise provided in subsection (e), a security interest in goods covered by a certificate of title which is perfected by any method under the law of another jurisdiction when the goods become covered by a certificate of title from this state remains perfected until the security interest would have become unperfected under the law of the other jurisdiction had the goods not become so covered.

(e) A security interest described in subsection (d) becomes unperfected as against a purchaser of the goods for value and is deemed never to have been perfected as against a purchaser of the goods for value if the applicable requirements for perfection under IC 26-1-9.1-311(b) or IC 26-1-9.1-313 are not satisfied before the earlier of:

- (1) the time the security interest would have become unperfected under the law of the other jurisdiction had the goods not become covered by a certificate of title from this state; or
- (2) the expiration of four (4) months after the goods had become so covered.

(f) A security interest in deposit accounts, letter-of-credit rights,

or investment property which is perfected under the law of the bank's jurisdiction, the issuer's jurisdiction, a nominated person's jurisdiction, the securities intermediary's jurisdiction, or the commodity intermediary's jurisdiction, as applicable, remains perfected until the earlier of:

- (1) the time the security interest would have become unperfected under the law of that jurisdiction; or
- (2) the expiration of four (4) months after a change of the applicable jurisdiction to another jurisdiction.

(g) If a security interest described in subsection (f) becomes perfected under the law of the other jurisdiction before the earlier of the time or the end of the period described in that subsection, it remains perfected thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earlier of that time or the end of that period, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

Sec. 317. (a) An unperfected security interest or agricultural lien is subordinate to the rights of:

- (1) a person entitled to priority under IC 26-1-9.1-322; and
- (2) a person that becomes a lien creditor before the earlier of the time:
 - (A) the security interest or agricultural lien is perfected; or
 - (B) one (1) of the conditions specified in IC 26-1-9.1-203(b)(3) is met;

and a financing statement covering the collateral is filed.

(b) Except as otherwise provided in subsection (e), a buyer, other than a secured party, of tangible chattel paper, documents, goods, instruments, or a security certificate takes free of a security interest or agricultural lien if the buyer gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(c) Except as otherwise provided in subsection (e), a lessee of goods takes free of a security interest or agricultural lien if the lessee gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(d) A licensee of a general intangible or a buyer, other than a secured party, of accounts, electronic chattel paper, general

intangibles, or investment property other than a certificated security takes free of a security interest if the licensee or buyer gives value without knowledge of the security interest and before it is perfected.

(e) Except as otherwise provided in IC 26-1-9.1-320 and IC 26-1-9.1-321, if a person files a financing statement with respect to a purchase-money security interest before or within twenty (20) days after the debtor receives delivery of the collateral, the security interest takes priority over the rights of a buyer, lessee, or lien creditor that arise between the time the security interest attaches and the time of filing.

Sec. 318. (a) A debtor that has sold an account, chattel paper, payment intangible, or promissory note does not retain a legal or equitable interest in the collateral sold.

(b) For purposes of determining the rights of creditors of, and purchasers for value of an account or chattel paper from, a debtor that has sold an account or chattel paper, while the buyer's security interest is unperfected, the debtor is deemed to have rights and title to the account or chattel paper identical to those the debtor sold.

Sec. 319. (a) Except as otherwise provided in subsection (b), for purposes of determining the rights of creditors of, and purchasers for value of goods from, a consignee, while the goods are in the possession of the consignee, the consignee has rights and title to the goods identical to those the consignor had or had power to transfer.

(b) For purposes of determining the rights of a creditor of a consignee, law other than this article determines the rights and title of a consignee while goods are in the consignee's possession if, under this part, a perfected security interest held by the consignor would have priority over the rights of the creditor.

Sec. 320. (a) Except as otherwise provided in this subsection and subsection (e), a buyer in ordinary course of business takes free of a security interest created by the buyer's seller, even if the security interest is perfected and the buyer knows of its existence. The following apply whenever a person is buying farm products from a person engaged in farming operations who has created a security interest on the farm products:

(1) A person buying farm products from a person engaged in farming operations is not protected by this subsection if,

within one (1) year before the sale of the farm products, the buyer has received prior written notice of the security interest. "Written notice" means any writing that contains the following:

- (A) The full name and address of the debtor.
- (B) The full name and address of the secured party.
- (C) In the case of a debtor doing business other than as an individual, the United States Internal Revenue Service taxpayer identification number of the debtor.
- (D) A description of the collateral, including the type and amount of farm products, the crop year, the county of location, and a description of the real property on which the farm products were grown or produced.
- (E) Any payment obligations imposed on the buyer by the secured party as conditions for waiver or release of the security interest.

Notice must be received before a buyer of farm products has made full payment to the person engaged in farming operations for the farm products if the notice is to be considered "prior written notice". The written notice lapses on either the expiration period of the statement or the transmission of a notice signed by the secured party that the statement has lapsed, whichever occurs first.

(2) A secured party must, within fifteen (15) days of the satisfaction of the debt, inform in writing each potential buyer listed by the debtor whenever a debt has been satisfied and written notice, as required by subdivision (1), had been previously sent to that buyer.

(3) A debtor engaged in farming operations who has created a security interest in farm products must provide the secured party with a written list of potential buyers of the farm products at the time the debt is incurred if such a list is requested by the secured party. The debtor may not sell farm products to a buyer who does not appear on the list (if the list is requested by the secured party) unless the secured party has given prior written permission to the debtor to sell to someone who does not appear on the list, or the debtor satisfies the debt for that secured party on the farm products he sells within fifteen (15) days of the date of sale. A debtor

who knowingly or intentionally sells to a buyer who does not appear on the list (if the list is requested by the secured party) and who does not meet one (1) of the above exceptions, commits a Class C misdemeanor. A secured party commits a Class C infraction if the secured party knowingly or intentionally gives false or misleading information on the notice required by subdivision (1) or the secured party fails within fifteen (15) days of satisfaction of the debt to notify purchasers to whom a written notice had been previously sent under subdivision (1) of the satisfaction of the debt.

(4) A purchaser of farm products buying from a person engaged in farming operations must issue a check for payment jointly to the debtor and those secured parties from whom he has received prior written notice of a security interest as provided for in subdivision (1). A purchaser who fails to issue a jointly payable check as required by this subsection is not protected by this subdivision. A purchaser of farm products (on which there is a perfected security interest) buying from a person engaged in farming operations who withholds all or part of the proceeds of the sale from the seller, in order to satisfy a prior debt ("prior debt" does not include the costs of marketing the farm product or the cost of transporting the farm product to the market) owed by the seller to the buyer, commits a Class C infraction.

(b) Except as otherwise provided in subsection (e), a buyer of goods from a person who used or bought the goods for use primarily for personal, family, or household purposes takes free of a security interest, even if perfected, if the buyer buys:

- (1) without knowledge of the security interest;
- (2) for value;
- (3) primarily for the buyer's personal, family, or household purposes; and
- (4) before the filing of a financing statement covering the goods.

(c) To the extent that it affects the priority of a security interest over a buyer of goods under subsection (b), the period of effectiveness of a filing made in the jurisdiction in which the seller is located is governed by IC 26-1-9.1-316(a) and IC 26-1-9.1-316(b).

(d) A buyer in ordinary course of business buying oil, gas, or

other minerals at the wellhead or minehead or after extraction takes free of an interest arising out of an encumbrance.

(e) Subsections (a) and (b) do not affect a security interest in goods in the possession of the secured party under IC 26-1-9.1-313.

Sec. 321. (a) In this section, "licensee in ordinary course of business" means a person that becomes a licensee of a general intangible in good faith, without knowledge that the license violates the rights of another person in the general intangible, and in the ordinary course from a person in the business of licensing general intangibles of that kind. A person becomes a licensee in the ordinary course if the license to the person comports with the usual or customary practices in the kind of business in which the licensor is engaged or with the licensor's own usual or customary practices.

(b) A licensee in ordinary course of business takes its rights under a nonexclusive license free of a security interest in the general intangible created by the licensor, even if the security interest is perfected and the licensee knows of its existence.

(c) A lessee in ordinary course of business takes its leasehold interest free of a security interest in the goods created by the lessor, even if the security interest is perfected and the lessee knows of its existence.

Sec. 322. (a) Except as otherwise provided in this section, priority among conflicting security interests and agricultural liens in the same collateral is determined according to the following rules:

(1) Conflicting perfected security interests and agricultural liens rank according to priority in time of filing or perfection. Priority dates from the earlier of the time a filing covering the collateral is first made or the security interest or agricultural lien is first perfected, if there is no period thereafter when there is neither filing nor perfection.

(2) A perfected security interest or agricultural lien has priority over a conflicting unperfected security interest or agricultural lien.

(3) The first security interest or agricultural lien to attach or become effective has priority if conflicting security interests and agricultural liens are unperfected.

(b) For the purposes of subsection (a)(1):

(1) the time of filing or perfection as to a security interest in

collateral is also the time of filing or perfection as to a security interest in proceeds; and

(2) the time of filing or perfection as to a security interest in collateral supported by a supporting obligation is also the time of filing or perfection as to a security interest in the supporting obligation.

(c) Except as otherwise provided in subsection (f), a security interest in collateral which qualifies for priority over a conflicting security interest under IC 26-1-9.1-327, IC 26-1-9.1-328, IC 26-1-9.1-329, IC 26-1-9.1-330, or IC 26-1-9.1-331 also has priority over a conflicting security interest in:

(1) any supporting obligation for the collateral; and

(2) proceeds of the collateral if:

(A) the security interest in proceeds is perfected;

(B) the proceeds are cash proceeds or of the same type as the collateral; and

(C) in the case of proceeds that are proceeds of proceeds, all intervening proceeds are cash proceeds, proceeds of the same type as the collateral, or an account relating to the collateral.

(d) Subject to subsection (e) and except as otherwise provided in subsection (f), if a security interest in chattel paper, deposit accounts, negotiable documents, instruments, investment property, or letter-of-credit rights is perfected by a method other than filing, conflicting perfected security interests in proceeds of the collateral rank according to priority in time of filing.

(e) Subsection (d) applies only if the proceeds of the collateral are not cash proceeds, chattel paper, negotiable documents, instruments, investment property, or letter-of-credit rights.

(f) Subsections (a) through (e) are subject to:

(1) subsection (g) and the other provisions of this part;

(2) IC 26-1-4-210 with respect to a security interest of a collecting bank;

(3) IC 26-1-5.1-118 with respect to a security interest of an issuer or nominated person; and

(4) IC 26-1-9.1-110 with respect to a security interest arising under IC 26-1-2 or IC 26-1-2.1.

(g) A perfected agricultural lien on collateral has priority over a conflicting security interest in or agricultural lien on the same

collateral if the statute creating the agricultural lien so provides.

Sec. 323. (a) Except as otherwise provided in subsection (c), for purposes of determining the priority of a perfected security interest under IC 26-1-9.1-322(a)(1), perfection of the security interest dates from the time an advance is made to the extent that the security interest secures an advance that:

- (1) is made while the security interest is perfected only:
 - (A) under IC 26-1-9.1-309 when it attaches; or
 - (B) temporarily under IC 26-1-9.1-312(e), IC 26-1-9.1-312(f), or IC 26-1-9.1-312(g); and
- (2) is not made pursuant to a commitment entered into before or while the security interest is perfected by a method other than under IC 26-1-9.1-309, IC 26-1-9.1-312(e), IC 26-1-9.1-312(f), or IC 26-1-9.1-312(g).

(b) Except as otherwise provided in subsection (c), a security interest is subordinate to the rights of a person that becomes a lien creditor to the extent that the security interest secures an advance made more than forty-five (45) days after the person becomes a lien creditor unless the advance is made:

- (1) without knowledge of the lien; or
- (2) pursuant to a commitment entered into without knowledge of the lien.

(c) Subsections (a) and (b) do not apply to a security interest held by a secured party that is a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a consignee.

(d) Except as otherwise provided in subsection (e), a buyer of goods other than a buyer in ordinary course of business takes free of a security interest to the extent that it secures advances made after the earlier of:

- (1) the time the secured party acquires knowledge of the buyer's purchase; or
- (2) forty-five (45) days after the purchase.

(e) Subsection (d) does not apply if the advance is made pursuant to a commitment entered into without knowledge of the buyer's purchase and before the expiration of the forty-five (45) day period.

(f) Except as otherwise provided in subsection (g), a lessee of goods, other than a lessee in ordinary course of business, takes the leasehold interest free of a security interest to the extent that it

secures advances made after the earlier of:

- (1) the time the secured party acquires knowledge of the lease;
- or
- (2) forty-five (45) days after the lease contract becomes enforceable.

(g) Subsection (f) does not apply if the advance is made pursuant to a commitment entered into without knowledge of the lease and before the expiration of the forty-five (45) day period.

Sec. 324. (a) Except as otherwise provided in subsection (g), a perfected purchase-money security interest in goods other than inventory or livestock has priority over a conflicting security interest in the same goods, and, except as otherwise provided in IC 26-1-9.1-327, a perfected security interest in its identifiable proceeds also has priority, if the purchase-money security interest is perfected when the debtor receives possession of the collateral or within twenty (20) days thereafter.

(b) Subject to subsection (c) and except as otherwise provided in subsection (g), a perfected purchase-money security interest in inventory has priority over a conflicting security interest in the same inventory, has priority over a conflicting security interest in chattel paper or an instrument constituting proceeds of the inventory and in proceeds of the chattel paper, if so provided in IC 26-1-9.1-330, and, except as otherwise provided in IC 26-1-9.1-327, also has priority in identifiable cash proceeds of the inventory to the extent the identifiable cash proceeds are received on or before the delivery of the inventory to a buyer, if:

- (1) the purchase-money security interest is perfected when the debtor receives possession of the inventory;
- (2) the purchase-money secured party sends an authenticated notification to the holder of the conflicting security interest;
- (3) the holder of the conflicting security interest receives the notification within five (5) years before the debtor receives possession of the inventory; and
- (4) the notification states that the person sending the notification has or expects to acquire a purchase-money security interest in inventory of the debtor and describes the inventory.

(c) Subsection (b)(2) through (b)(4) apply only if the holder of the conflicting security interest had filed a financing statement

covering the same types of inventory:

- (1) if the purchase-money security interest is perfected by filing, before the date of the filing; or
- (2) if the purchase-money security interest is temporarily perfected without filing or possession under IC 26-1-9.1-312(f), before the beginning of the twenty (20) day period thereunder.

(d) Subject to subsection (e) and except as otherwise provided in subsection (g), a perfected purchase-money security interest in livestock that are farm products has priority over a conflicting security interest in the same livestock, and, except as otherwise provided in IC 26-1-9.1-327, a perfected security interest in their identifiable proceeds and identifiable products in their unmanufactured states also has priority, if:

- (1) the purchase-money security interest is perfected when the debtor receives possession of the livestock;
- (2) the purchase-money secured party sends an authenticated notification to the holder of the conflicting security interest;
- (3) the holder of the conflicting security interest receives the notification within six (6) months before the debtor receives possession of the livestock; and
- (4) the notification states that the person sending the notification has or expects to acquire a purchase-money security interest in livestock of the debtor and describes the livestock.

(e) Subsection (d)(2) through (d)(4) apply only if the holder of the conflicting security interest had filed a financing statement covering the same types of livestock:

- (1) if the purchase-money security interest is perfected by filing, before the date of the filing; or
- (2) if the purchase-money security interest is temporarily perfected without filing or possession under IC 26-1-9.1-312(f), before the beginning of the twenty (20) day period thereunder.

(f) Except as otherwise provided in subsection (g), a perfected purchase-money security interest in software has priority over a conflicting security interest in the same collateral, and, except as otherwise provided in IC 26-1-9.1-327, a perfected security interest in its identifiable proceeds also has priority, to the extent that the

purchase-money security interest in the goods in which the software was acquired for use has priority in the goods and proceeds of the goods under this section.

(g) If more than one (1) security interest qualifies for priority in the same collateral under subsection (a), (b), (d), or (f):

(1) a security interest securing an obligation incurred as all or part of the price of the collateral has priority over a security interest securing an obligation incurred for value given to enable the debtor to acquire rights in or the use of collateral; and

(2) in all other cases, IC 26-1-9.1-322(a) applies to the qualifying security interests.

Sec. 325. (a) Except as otherwise provided in subsection (b), a security interest created by a debtor is subordinate to a security interest in the same collateral created by another person if:

(1) the debtor acquired the collateral subject to the security interest created by the other person;

(2) the security interest created by the other person was perfected when the debtor acquired the collateral; and

(3) there is no period thereafter when the security interest is unperfected.

(b) Subsection (a) subordinates a security interest only if the security interest:

(1) otherwise would have priority solely under IC 26-1-9.1-322(a) or IC 26-1-9.1-324; or

(2) arose solely under IC 26-1-2-711(3) or IC 26-1-2.1-508(5).

Sec. 326. (a) Subject to subsection (b), a security interest created by a new debtor which is perfected by a filed financing statement that is effective solely under IC 26-1-9.1-508 in collateral in which a new debtor has or acquires rights is subordinate to a security interest in the same collateral that is perfected by another method.

(b) The other provisions of IC 26-1-9.1-301 through IC 26-1-9.1-342 determine the priority among conflicting security interests in the same collateral perfected by filed financing statements that are effective solely under IC 26-1-9-508. However, if the security agreements to which a new debtor became bound as a debtor were not entered into by the same original debtor, the conflicting security interests rank according to priority in time of the new debtor's having become bound.

Sec. 327. The following rules govern priority among conflicting security interests in the same deposit account:

- (1) A security interest held by a secured party having control of the deposit account under IC 26-1-9.1-104 has priority over a conflicting security interest held by a secured party that does not have control.**
- (2) Except as otherwise provided in subdivisions (3) and (4), security interests perfected by control under IC 26-1-9.1-314 rank according to priority in time of obtaining control.**
- (3) Except as otherwise provided in subdivision (4), a security interest held by the bank with which the deposit account is maintained has priority over a conflicting security interest held by another secured party.**
- (4) A security interest perfected by control under IC 26-1-9.1-104(a)(3) has priority over a security interest held by the bank with which the deposit account is maintained.**

Sec. 328. The following rules govern priority among conflicting security interests in the same investment property:

- (1) A security interest held by a secured party having control of investment property under IC 26-1-9.1-106 has priority over a security interest held by a secured party that does not have control of the investment property.**
- (2) Except as otherwise provided in subdivisions (3) and (4), conflicting security interests held by secured parties each of which has control under IC 26-1-9.1-106 rank according to priority in time of:**
 - (A) if the collateral is a security, obtaining control;**
 - (B) if the collateral is a security entitlement carried in a securities account and:**
 - (i) if the secured party obtained control under IC 26-1-8.1-106(d)(1), the secured party's becoming the person for which the securities account is maintained;**
 - (ii) if the secured party obtained control under IC 26-1-8.1-106(d)(2), the securities intermediary's agreement to comply with the secured party's entitlement orders with respect to security entitlements carried or to be carried in the securities account; or**
 - (iii) if the secured party obtained control through another person under IC 26-1-8.1-106(d)(3), the time on**

which priority would be based under this subdivision if the other person were the secured party; or

(C) if the collateral is a commodity contract carried with a commodity intermediary, the satisfaction of the requirement for control specified in IC 26-1-9.1-106(b)(2) with respect to commodity contracts carried or to be carried with the commodity intermediary.

(3) A security interest held by a securities intermediary in a security entitlement or a securities account maintained with the securities intermediary has priority over a conflicting security interest held by another secured party.

(4) A security interest held by a commodity intermediary in a commodity contract or a commodity account maintained with the commodity intermediary has priority over a conflicting security interest held by another secured party.

(5) A security interest in a certificated security in registered form which is perfected by taking delivery under IC 26-1-9.1-313(a) and not by control under IC 26-1-9.1-314 has priority over a conflicting security interest perfected by a method other than control.

(6) Conflicting security interests created by a broker, securities intermediary, or commodity intermediary, which are perfected without control under IC 26-1-9.1-106 rank equally.

(7) In all other cases, priority among conflicting security interests in investment property is governed by IC 26-1-9.1-322 and IC 26-1-9.1-323.

Sec. 329. The following rules govern priority among conflicting security interests in the same letter-of-credit right:

(1) A security interest held by a secured party having control of the letter-of-credit right under IC 26-1-9.1-107 has priority to the extent of its control over a conflicting security interest held by a secured party that does not have control.

(2) Security interests perfected by control under IC 26-1-9.1-314 rank according to priority in time of obtaining control.

Sec. 330. (a) A purchaser of chattel paper has priority over a security interest in the chattel paper which is claimed merely as proceeds of inventory subject to a security interest if:

(1) in good faith and in the ordinary course of the purchaser's business, the purchaser gives new value and takes possession of the chattel paper or obtains control of the chattel paper under IC 26-1-9.1-105; and

(2) the chattel paper does not indicate that it has been assigned to an identified assignee other than the purchaser.

(b) A purchaser of chattel paper has priority over a security interest in the chattel paper which is claimed other than merely as proceeds of inventory subject to a security interest if the purchaser gives new value and takes possession of the chattel paper or obtains control of the chattel paper under IC 26-1-9.1-105 in good faith, in the ordinary course of the purchaser's business, and without knowledge that the purchase violates the rights of the secured party.

(c) Except as otherwise provided in IC 26-1-9.1-327, a purchaser having priority in chattel paper under subsection (a) or (b) also has priority in proceeds of the chattel paper to the extent that:

(1) IC 26-1-9.1-322 provides for priority in the proceeds; or

(2) the proceeds consist of the specific goods covered by the chattel paper or cash proceeds of the specific goods, even if the purchaser's security interest in the proceeds is unperfected.

(d) Except as otherwise provided in IC 26-1-9.1-331(a), a purchaser of an instrument has priority over a security interest in the instrument perfected by a method other than possession if the purchaser gives value and takes possession of the instrument in good faith and without knowledge that the purchase violates the rights of the secured party.

(e) For purposes of subsections (a) and (b), the holder of a purchase-money security interest in inventory gives new value for chattel paper constituting proceeds of the inventory.

(f) For purposes of subsections (b) and (d), if chattel paper or an instrument indicates that it has been assigned to an identified secured party other than the purchaser, a purchaser of the chattel paper or instrument has knowledge that the purchase violates the rights of the secured party.

Sec. 331. (a) This article does not limit the rights of a holder in due course of a negotiable instrument, a holder to which a negotiable document of title has been duly negotiated, or a

protected purchaser of a security. These holders or purchasers take priority over an earlier security interest, even if perfected, to the extent provided in IC 26-1-3.1, IC 26-1-7, and IC 26-1-8.1.

(b) This article does not limit the rights of or impose liability on a person to the extent that the person is protected against the assertion of an adverse claim under IC 26-1-8.1.

(c) Filing under IC 26-1-9.1 does not constitute notice of a claim or defense to the holders, purchasers, or persons described in subsections (a) and (b).

Sec. 332. (a) A transferee of money takes the money free of a security interest unless the transferee acts in collusion with the debtor in violating the rights of the secured party.

(b) A transferee of funds from a deposit account takes the funds free of a security interest in the deposit account unless the transferee acts in collusion with the debtor in violating the rights of the secured party.

Sec. 333. (a) In this section, "possessory lien" means an interest, other than a security interest or an agricultural lien:

- (1) that secures payment or performance of an obligation for services or materials furnished with respect to goods by a person in the ordinary course of the person's business;
- (2) that is created by statute or rule of law in favor of the person; and
- (3) whose effectiveness depends on the person's possession of the goods.

(b) A possessory lien on goods has priority over a security interest in the goods unless the lien is created by a statute that expressly provides otherwise.

Sec. 334. (a) A security interest under IC 26-1-9.1 may be created in goods that are fixtures or may continue in goods that become fixtures. A security interest does not exist under IC 26-1-9.1 in ordinary building materials incorporated into an improvement on land.

(b) IC 26-1-9.1 does not prevent creation of an encumbrance upon fixtures under real property law.

(c) In cases not governed by subsections (d) through (h), a security interest in fixtures is subordinate to a conflicting interest of an encumbrancer or owner of the related real property other than the debtor.

(d) Except as otherwise provided in subsection (h), a perfected security interest in fixtures has priority over a conflicting interest of an encumbrancer or owner of the real property if the debtor has an interest of record in or is in possession of the real property and:

- (1) the security interest is a purchase-money security interest;**
- (2) the interest of the encumbrancer or owner arises before the goods become fixtures; and**
- (3) the security interest is perfected by a fixture filing before the goods become fixtures or within twenty (20) days thereafter.**

(e) A perfected security interest in fixtures has priority over a conflicting interest of an encumbrancer or owner of the real property if:

- (1) the debtor has an interest of record in the real property or is in possession of the real property and the security interest:**
 - (A) is perfected by a fixture filing before the interest of the encumbrancer or owner is of record; and**
 - (B) has priority over any conflicting interest of a predecessor in title of the encumbrancer or owner;**
- (2) before the goods become fixtures, the security interest is perfected by any method permitted by IC 26-1-9.1 and the fixtures are readily removable:**
 - (A) factory or office machines;**
 - (B) equipment that is not primarily used or leased for use in the operation of the real property; or**
 - (C) replacements of domestic appliances that are consumer goods;**
- (3) the conflicting interest is a lien on the real property obtained by legal or equitable proceedings after the security interest was perfected by any method permitted by IC 26-1-9.1; or**
- (4) the security interest is:**
 - (A) created in a manufactured home in a manufactured-home transaction; and**
 - (B) perfected pursuant to a statute described in IC 26-1-9.1-311(a)(2).**

(f) A security interest in fixtures, whether or not perfected, has priority over a conflicting interest of an encumbrancer or owner of the real property if:

(1) the encumbrancer or owner has, in an authenticated record, consented to the security interest or disclaimed an interest in the goods as fixtures; or

(2) the debtor has a right to remove the goods against the encumbrancer or owner.

(g) The priority of the security interest under subsection (f) continues for a reasonable time if the debtor's right to remove the goods as against the encumbrancer or owner terminates.

(h) A mortgage is a construction mortgage to the extent that it secures an obligation incurred for the construction of an improvement on land, including the acquisition cost of the land, if a recorded record of the mortgage so indicates. Except as otherwise provided in subsections (e) and (f), a security interest in fixtures is subordinate to a construction mortgage if a record of the mortgage is recorded before the goods become fixtures and the goods become fixtures before the completion of the construction. A mortgage has this priority to the same extent as a construction mortgage to the extent that it is given to refinance a construction mortgage.

(i) A perfected security interest in crops growing on real property has priority over a conflicting interest of an encumbrancer or owner of the real property if the debtor has an interest of record in or is in possession of the real property.

Sec. 335. (a) A security interest may be created in an accession and continues in collateral that becomes an accession.

(b) If a security interest is perfected when the collateral becomes an accession, the security interest remains perfected in the collateral.

(c) Except as otherwise provided in subsection (d), the other provisions of IC 26-1-9.1-301 through IC 26-1-9.1-342 determine the priority of a security interest in an accession.

(d) A security interest in an accession is subordinate to a security interest in the whole which is perfected by compliance with the requirements of a certificate-of-title statute under IC 26-1-9.1-311(b).

(e) After default, subject to subsection (f), a secured party may remove an accession from other goods if the security interest in the accession has priority over the claims of every person having an interest in the whole.

(f) A secured party that removes an accession from other goods under subsection (e) shall promptly reimburse any holder of a security interest or other lien on, or owner, of the whole or the other goods, other than the debtor, for the cost of repair of any physical injury to the whole or the other goods. The secured party need not reimburse the holder or owner for any diminution in value of the whole or the other goods caused by the absence of the accession removed or by any necessity for replacing it. A person entitled to reimbursement may refuse permission to remove until the secured party gives adequate assurance for the performance of the obligation to reimburse.

Sec. 336. (a) As used in this section, "commingled goods" means goods that are physically united with other goods in such a manner that their identity is lost in a product or mass.

(b) A security interest does not exist in commingled goods as such. However, a security interest may attach to a product or mass that results when goods become commingled goods.

(c) If collateral becomes commingled goods, a security interest attaches to the product or mass.

(d) If a security interest in collateral is perfected before the collateral becomes commingled goods, the security interest that attaches to the product or mass under subsection (c) is perfected.

(e) Except as otherwise provided in subsection (f), the other provisions of IC 26-1-9.1-301 through IC 26-1-9.1-342 determine the priority of a security interest that attaches to the product or mass under subsection (c).

(f) If more than one (1) security interest attaches to the product or mass under subsection (c), the following rules determine priority:

(1) A security interest that is perfected under subsection (d) has priority over a security interest that is unperfected at the time the collateral becomes commingled goods.

(2) If more than one (1) security interest is perfected under subsection (d), the security interests rank equally in proportion to value of the collateral at the time it became commingled goods.

Sec. 337. If, while a security interest in goods is perfected by any method under the law of another jurisdiction, this state issues a certificate of title that does not show that the goods are subject to

the security interest or contain a statement that they may be subject to security interests not shown on the certificate:

- (1) a buyer of the goods, other than a person in the business of selling goods of that kind, takes free of the security interest if the buyer gives value and receives delivery of the goods after issuance of the certificate and without knowledge of the security interest; and
- (2) the security interest is subordinate to a conflicting security interest in the goods that attaches, and is perfected under IC 26-1-9.1-311(b), after issuance of the certificate and without the conflicting secured party's knowledge of the security interest.

Sec. 338. If a security interest or agricultural lien is perfected by a filed financing statement providing information described in IC 26-1-9.1-516(b)(5) that is incorrect at the time the financing statement is filed:

- (1) the security interest or agricultural lien is subordinate to a conflicting perfected security interest in the collateral to the extent that the holder of the conflicting security interest gives value in reasonable reliance upon the incorrect information; and
- (2) a purchaser, other than a secured party, of the collateral takes free of the security interest or agricultural lien to the extent that, in reasonable reliance upon the incorrect information, the purchaser gives value and, in the case of chattel paper, documents, goods, instruments, or a security certificate, receives delivery of the collateral.

Sec. 339. IC 26-1-9.1 does not preclude subordination by agreement by a person entitled to priority.

Sec. 340. (a) Except as otherwise provided in subsection (c), a bank with which a deposit account is maintained may exercise any right of recoupment or set-off against a secured party that holds a security interest in the deposit account.

(b) Except as otherwise provided in subsection (c), the application of IC 26-1-9.1 to a security interest in a deposit account does not affect a right of recoupment or set-off of the secured party as to a deposit account maintained with the secured party.

(c) The exercise by a bank of a set-off against a deposit account is ineffective against a secured party that holds a security interest

in the deposit account which is perfected by control under IC 26-1-9.1-104(a)(3), if the set-off is based on a claim against the debtor.

Sec. 341. Except as otherwise provided in IC 26-1-9.1-340(c), and unless the bank otherwise agrees in an authenticated record, a bank's rights and duties with respect to a deposit account maintained with the bank are not terminated, suspended, or modified by:

- (1) the creation, attachment, or perfection of a security interest in the deposit account;
- (2) the bank's knowledge of the security interest; or
- (3) the bank's receipt of instructions from the secured party.

Sec. 342. IC 26-1-9.1 does not require a bank to enter into an agreement of the kind described in IC 26-1-9.1-104(a)(2), even if its customer so requests or directs. A bank that has entered into such an agreement is not required to confirm the existence of the agreement to another person unless requested to do so by its customer.

Sec. 401. (a) Except as otherwise provided in subsection (b) and IC 26-1-9.1-406, IC 26-1-9.1-407, IC 26-1-9.1-408, and IC 26-1-9.1-409, whether a debtor's rights in collateral may be voluntarily or involuntarily transferred is governed by law other than IC 26-1-9.1.

(b) An agreement between the debtor and secured party that prohibits a transfer of the debtor's rights in collateral or makes the transfer a default does not prevent the transfer from taking effect.

Sec. 402. The existence of a security interest, agricultural lien, or authority given to a debtor to dispose of or use collateral, without more, does not subject a secured party to liability in contract or tort for the debtor's acts or omissions.

Sec. 403. (a) As used in this section, "value" has the meaning provided in IC 26-1-3-303(a).

(b) Except as otherwise provided in this section, an agreement between an account debtor and an assignor not to assert against an assignee any claim or defense that the account debtor may have against the assignor is enforceable by an assignee that takes an assignment:

- (1) for value;
- (2) in good faith;

(3) without notice of a claim of a property or possessory right to the property assigned; and

(4) without notice of a defense or claim in recoupment of the type that may be asserted against a person entitled to enforce a negotiable instrument under IC 26-1-3.1-305(a).

(c) Subsection (b) does not apply to defenses of a type that may be asserted against a holder in due course of a negotiable instrument under IC 26-1-3.1-305(b).

(d) In a consumer transaction, if a record evidences the account debtor's obligation, law other than IC 26-1-9.1 requires that the record include a statement to the effect that the rights of an assignee are subject to claims or defenses that the account debtor could assert against the original obligee, and the record does not include such a statement:

(1) the record has the same effect as if the record included such a statement; and

(2) the account debtor may assert against an assignee those claims and defenses that would have been available if the record included such a statement.

(e) This section is subject to law other than IC 26-1-9.1 that establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

(f) Except as otherwise provided in subsection (d), this section does not displace law other than IC 26-1-9.1 which gives effect to an agreement by an account debtor not to assert a claim or defense against an assignee.

Sec. 404. (a) Unless an account debtor has made an enforceable agreement not to assert defenses or claims, and subject to subsections (b) through (e), the rights of an assignee are subject to:

(1) all terms of the agreement between the account debtor and assignor and any defense or claim in recoupment arising from the transaction that gave rise to the contract; and

(2) any other defense or claim of the account debtor against the assignor which accrues before the account debtor receives a notification of the assignment authenticated by the assignor or the assignee.

(b) Subject to subsection (c) and except as otherwise provided in subsection (d), the claim of an account debtor against an

assignor may be asserted against an assignee under subsection (a) only to reduce the amount the account debtor owes.

(c) This section is subject to law other than IC 26-1-9.1 that establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

(d) In a consumer transaction, if a record evidences the account debtor's obligation, law other than IC 26-1-9.1 requires that the record include a statement to the effect that the account debtor's recovery against an assignee with respect to claims and defenses against the assignor may not exceed amounts paid by the account debtor under the record, and the record does not include such a statement, the extent to which a claim of an account debtor against the assignor may be asserted against an assignee is determined as if the record included such a statement.

(e) This section does not apply to an assignment of a health-care-insurance receivable.

Sec. 405. (a) A modification of or substitution for an assigned contract is effective against an assignee if made in good faith. The assignee acquires corresponding rights under the modified or substituted contract. The assignment may provide that the modification or substitution is a breach of contract by the assignor. This subsection is subject to subsections (b) through (d).

(b) Subsection (a) applies to the extent that:

- (1) the right to payment or a part thereof under an assigned contract has not been fully earned by performance; or
- (2) the right to payment or a part thereof has been fully earned by performance and the account debtor has not received notification of the assignment under IC 26-1-9.1-406(a).

(c) This section is subject to law other than IC 26-1-9.1 that establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

(d) This section does not apply to an assignment of a health-care-insurance receivable.

Sec. 406. (a) Subject to subsections (b) through (i), an account debtor on an account, chattel paper, or a payment intangible may discharge its obligation by paying the assignor until, but not after,

the account debtor receives a notification, authenticated by the assignor or the assignee, that the amount due or to become due has been assigned and that payment is to be made to the assignee. After receipt of the notification, the account debtor may discharge its obligation by paying the assignee and may not discharge the obligation by paying the assignor.

(b) Subject to subsection (h), notification is ineffective under subsection (a):

- (1) if it does not reasonably identify the rights assigned;
- (2) to the extent that an agreement between an account debtor and a seller of a payment intangible limits the account debtor's duty to pay a person other than the seller and the limitation is effective under law other than IC 26-1-9.1; or
- (3) at the option of an account debtor, if the notification notifies the account debtor to make less than the full amount of any installment or other periodic payment to the assignee, even if:

- (A) only a portion of the account, chattel paper, or payment intangible has been assigned to that assignee;
- (B) a portion has been assigned to another assignee; or
- (C) the account debtor knows that the assignment to that assignee is limited.

(c) Subject to subsection (h), if requested by the account debtor, an assignee shall seasonably furnish reasonable proof that the assignment has been made. Unless the assignee complies, the account debtor may discharge its obligation by paying the assignor, even if the account debtor has received a notification under subsection (a).

(d) Except as otherwise provided in subsection (e) and IC 26-1-2.1-303 and IC 26-1-9.1-407, and subject to subsection (h), a term in an agreement between an account debtor and an assignor or in a promissory note is ineffective to the extent that it:

- (1) prohibits, restricts, or requires the consent of the account debtor or person obligated on the promissory note to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, the account, chattel paper, payment intangible, or promissory note; or
- (2) provides that the assignment or transfer or the creation,

attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the account, chattel paper, payment intangible, or promissory note.

(e) Subsection (d) does not apply to the sale of a payment intangible or promissory note.

(f) Except as provided in IC 26-1-2.1-303 and IC 26-1-9-407, and subject to subsections (h) and (i), a rule of law, statute, or regulation that prohibits, restricts, or requires the consent of a government, governmental body or official, or account debtor to the assignment or transfer of, or creation of a security interest in, an account or chattel paper is ineffective to the extent that the rule of law, statute, or regulation:

(1) prohibits, restricts, or requires the consent of the government, governmental body or official, or account debtor to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in the account or chattel paper; or

(2) provides that the assignment or transfer or the creation, attachment, perfection, or enforcement of the security interest may give rise to a default, right of recoupment, claim, defense, termination, right of termination, or remedy under the account or chattel paper.

(g) Subject to subsection (h), an account debtor may not waive or vary its option under subsection (b)(3).

(h) This section is subject to law other than IC 26-1-9.1 which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

(i) This section does not apply to an assignment of a health-care-insurance receivable.

Sec. 407. (a) Except as otherwise provided in subsection (b), a term in a lease agreement is ineffective to the extent that it:

(1) prohibits, restricts, or requires the consent of a party to the lease to the assignment, transfer, creation, attachment, perfection, or enforcement of a security interest in an interest of a party under the lease contract or in the lessor's residual interest in the goods; or

(2) provides that the assignment, transfer, creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the lease.

(b) Except as otherwise provided in IC 26-1-2.1-303(7), a term described in subsection (a)(2) is effective to the extent that there is:

(1) a transfer by the lessee of the lessee's right of possession or use of the goods in violation of the term; or

(2) a delegation of a material performance of either party to the lease contract in violation of the term.

(c) The creation, attachment, perfection, or enforcement of a security interest in the lessor's interest under the lease contract or the lessor's residual interest in the goods is not a transfer that materially impairs the lessee's prospect of obtaining return performance or materially changes the duty of or materially increases the burden or risk imposed on the lessee within the purview of IC 26-1-2.1-303(4) unless, and then only to the extent that, enforcement actually results in a delegation of material performance of the lessor.

Sec. 408. (a) Except as otherwise provided in subsection (b), a term in a promissory note or in an agreement between an account debtor and a debtor that relates to a health-care-insurance receivable or a general intangible, including a contract, permit, license, or franchise, and which term prohibits, restricts, or requires the consent of the person obligated on the promissory note or the account debtor to, the assignment or transfer of, or creation, attachment, or perfection of a security interest in, the promissory note, health-care-insurance receivable, or general intangible, is ineffective to the extent that the term:

(1) would impair the creation, attachment, or perfection of a security interest; or

(2) provides that the assignment, transfer, creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the promissory note, health-care-insurance receivable, or general intangible.

(b) Subsection (a) applies to a security interest in a payment

intangible or promissory note only if the security interest arises out of a sale of the payment intangible or promissory note.

(c) A rule of law, statute, or regulation, which prohibits, restricts, or requires the consent of a government, governmental body or official, person obligated on a promissory note, or account debtor to the assignment or transfer of, or creation of a security interest in, a promissory note, health-care-insurance receivable, or general intangible, including a contract, permit, license, or franchise between an account debtor and a debtor, is ineffective to the extent that the rule of law, statute, or regulation:

- (1) would impair the creation, attachment, or perfection of a security interest; or**
- (2) provides that the assignment, transfer, creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the promissory note, health-care-insurance receivable, or general intangible.**

(d) To the extent that a term in a promissory note or in an agreement between an account debtor and a debtor which relates to a health-care-insurance receivable or general intangible or a rule of law, statute, or regulation described in subsection (c) would be effective under law other than IC 26-1-9.1 but is ineffective under subsection (a) or (c), the assignment, transfer, creation, attachment, or perfection of a security interest in the promissory note, health-care-insurance receivable, or general intangible:

- (1) is not enforceable against the person obligated on the promissory note or the account debtor;**
- (2) does not impose a duty or obligation on the person obligated on the promissory note or the account debtor;**
- (3) does not require the person obligated on the promissory note or the account debtor to recognize the security interest, pay or render performance to the secured party, or accept payment or performance from the secured party;**
- (4) does not entitle the secured party to use or assign the debtor's rights under the promissory note, health-care-insurance receivable, or general intangible, including any related information or materials furnished to the debtor in the transaction giving rise to the promissory**

note, health-care-insurance receivable, or general intangible;
(5) does not entitle the secured party to use, assign, possess, or have access to any trade secrets or confidential information of the person obligated on the promissory note or the account debtor; and

(6) does not entitle the secured party to enforce the security interest in the promissory note, health-care-insurance receivable, or general intangible.

(e) This section prevails over any inconsistent provision in statute, administrative rule, or regulation.

Sec. 409. (a) A term in a letter-of-credit or a rule of law, statute, regulation, custom, or practice applicable to the letter-of-credit that prohibits, restricts, or requires the consent of an applicant, issuer, or nominated person to a beneficiary's assignment of or creation of a security interest in a letter-of-credit right is ineffective to the extent that the term or rule of law, statute, regulation, custom, or practice:

(1) would impair the creation, attachment, or perfection of a security interest in the letter-of-credit right; or

(2) provides that the assignment, transfer, creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the letter-of-credit right.

(b) To the extent that a term in a letter-of-credit is ineffective under subsection (a) but would be effective under law other than IC 26-1-9.1 or a custom or practice applicable to the letter-of-credit, to the transfer of a right to draw or otherwise demand performance under the letter-of-credit, or to the assignment of a right to proceeds of the letter-of-credit, the creation, attachment, or perfection of a security interest in the letter-of-credit right:

(1) is not enforceable against the applicant, issuer, nominated person, or transferee beneficiary;

(2) imposes no duties or obligations on the applicant, issuer, nominated person, or transferee beneficiary; and

(3) does not require the applicant, issuer, nominated person, or transferee beneficiary to recognize the security interest, pay or render performance to the secured party, or accept

payment or other performance from the secured party.

Sec. 501. (a) Except as otherwise provided in subsections (b) and (c), if the local law of this state governs perfection of a security interest or agricultural lien, the office in which to file a financing statement to perfect the security interest or agricultural lien is:

(1) the office designated for the filing or recording of a record of a mortgage on the related real property, if:

(A) the collateral is as-extracted collateral or timber to be cut; or

(B) the financing statement is filed as a fixture filing and the collateral is goods that are or are to become fixtures; or

(2) the office of the secretary of state, in all other cases, including a case in which the collateral is goods that are or are to become fixtures and the financing statement is not filed as a fixture filing.

(b) The office in which to file a financing statement to perfect a security interest in collateral, including fixtures, of a transmitting utility is the office of the secretary of state. The financing statement also constitutes a fixture filing as to the collateral indicated in the financing statement which is or is to become fixtures.

(c) Before July 1, 2002, the office in which to file a financing statement to perfect a security interest or agricultural lien in:

(1) equipment used in a farming operation;

(2) a farm product; or

(3) an account or a general intangible arising from or relating to the sale of a farm product by a farmer;

is the office of county recorder in the county of the debtor's location, as determined under IC 26-1-9.1-307.

(d) A financing statement filed under subsection (c) is effective for five (5) years after the date the financing statement is filed.

(e) After June 30, 2001, and before July 1, 2002, a financing statement filed under subsection (c) may be amended only by filing an amendment in the same office of county recorder as the office in which the financing statement being amended was filed.

(f) After June 30, 2002, a financing statement filed under subsection (c) may be amended only if a replacement financing statement is filed in the office of the secretary of state. The replacement financing statement must:

- (1) satisfy the requirements of IC 26-1-9.1 for an initial financing statement;**
- (2) identify the earlier financing statement filed under subsection (c) by:**
 - (A) indicating the office in which the earlier financing statement was filed; and**
 - (B) providing the dates of filing and file numbers, if any, of:**
 - (i) the earlier financing statement filed under subsection (c); and**
 - (ii) the most recent amendment filed with respect to the financing statement filed under subsection (c); and**
- (3) indicate that the earlier financing statement filed under subsection (c) remains effective.**

(g) The filing of a replacement financing statement under subsection (f) is effective as a continuation statement of the earlier financing statement filed under subsection (c) if it is filed:

- (1) after June 30, 2002; and**
- (2) before the lapse of the earlier financing statement filed under subsection (c).**

The filing of a replacement financing statement under subsection (f) continues the effectiveness of the earlier financing statement filed under subsection (c) for five (5) years after the date the replacement financing statement is filed.

(h) After June 30, 2002, a financing statement filed under subsection (c) may be terminated only if:

- (1) a replacement financing statement is filed under subsection (f); and**
- (2) a termination statement has been filed that satisfies IC 26-1-9.1-513.**

(i) After June 30, 2002, a financing statement filed under subsection (c) may be assigned only if:

- (1) a replacement financing statement is filed under subsection (f); and**
- (2) an assignment of record is filed that satisfies IC 26-1-9.1-514.**

(j) After June 30, 2002, a financing statement filed under subsection (c) may be amended (for purposes other than continuation, termination, or assignment) only if:

(1) a replacement financing statement is filed under subsection (f); and

(2) an amendment is filed that satisfies IC 26-1-9.1-512.

Sec. 502. (a) Subject to subsection (b), a financing statement is sufficient only if it:

(1) provides the name of the debtor;

(2) provides the name of the secured party or a representative of the secured party;

(3) indicates the collateral covered by the financing statement; and

(4) is authenticated by the debtor, if the financing statement is an initial financing statement.

(b) Except as otherwise provided in IC 26-1-9.1-501(b), to be sufficient, a financing statement that covers as-extracted collateral or timber to be cut, or which is filed as a fixture filing and covers goods that are or are to become fixtures, must satisfy subsection (a) and also:

(1) indicate that it covers this type of collateral;

(2) indicate that it is to be filed in the real property records;

(3) provide a description of the real property to which the collateral is related that is sufficient to give constructive notice of a mortgage under the law of this state if the description were contained in a record of the mortgage of the real property; and

(4) if the debtor does not have an interest of record in the real property, provide the name of a record owner.

(c) A record of a mortgage is effective, from the date of recording, as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut only if:

(1) the record indicates the goods or accounts that it covers;

(2) the goods are or are to become fixtures related to the real property described in the record or the collateral is related to the real property described in the record and is as-extracted collateral or timber to be cut;

(3) the record satisfies the requirements for a financing statement in this section other than an indication that it is to be filed in the real property records; and

(4) the record is recorded.

(d) A financing statement may be filed before a security agreement is made or a security interest otherwise attaches.

(e) To the extent that IC 36-2-11-15 applies to require the identification of the preparer of a financing statement, the failure of the financing statement to identify the preparer does not affect the sufficiency of the financing statement.

Sec. 503. (a) A financing statement sufficiently provides the name of the debtor:

(1) if the debtor is a registered organization, only if the financing statement provides the name of the debtor indicated on the public record of the debtor's jurisdiction of organization which shows the debtor to have been organized;

(2) if the debtor is a decedent's estate, only if the financing statement provides the name of the decedent and indicates that the debtor is an estate;

(3) if the debtor is a trust or a trustee acting with respect to property held in trust, only if the financing statement:

(A) provides the name specified for the trust in its organic documents or, if no name is specified, provides the name of the settlor and additional information sufficient to distinguish the debtor from other trusts having one (1) or more of the same settlors; and

(B) indicates, in the debtor's name or otherwise, that the debtor is a trust or is a trustee acting with respect to property held in trust; and

(4) in other cases:

(A) if the debtor has a name, only if it provides the individual or organizational name of the debtor; and

(B) if the debtor does not have a name, only if it provides the names of the partners, members, associates, or other persons comprising the debtor.

(b) A financing statement that provides the name of the debtor in accordance with subsection (a) is not rendered ineffective by the absence of:

(1) a trade name or other name of the debtor; or

(2) unless required under subsection (a)(4)(B), names of partners, members, associates, or other persons comprising the debtor.

(c) A financing statement that provides only the debtor's trade

name does not sufficiently provide the name of the debtor.

(d) Failure to indicate the representative capacity of a secured party or representative of a secured party does not affect the sufficiency of a financing statement.

(e) A financing statement may provide the name of more than one (1) debtor and the name of more than one (1) secured party.

Sec. 504. A financing statement sufficiently indicates the collateral that it covers if the financing statement provides:

- (1) a description of the collateral pursuant to IC 26-1-9.1-108;
- or
- (2) an indication that the financing statement covers all assets or all personal property.

Sec. 505. (a) A consignor, lessor, or other bailor of goods or a buyer of a payment intangible or a promissory note may file a financing statement, or may comply with a statute or treaty described in IC 26-1-9.1-311(a), using the terms "consignor", "consignee", "lessor", "lessee", "bailor", "bailee", "licensor", "licensee", "owner", "registered owner", "buyer", "seller", or words of similar import, instead of the terms "secured party" and "debtor".

(b) IC 26-1-9.1-501 through IC 26-1-9.1-527 apply to the filing of a financing statement under subsection (a) and, as appropriate, to compliance that is equivalent to filing a financing statement under IC 26-1-9.1-311(b), but the filing or compliance is not of itself a factor in determining whether the collateral secures an obligation. If it is determined for another reason that the collateral secures an obligation, a security interest held by the consignor, lessor, bailor, owner, or buyer which attaches to the collateral is perfected by the filing or compliance.

Sec. 506. (a) A financing statement substantially satisfying the requirements of IC 26-1-9.1-501 through IC 26-1-9.1-527 is effective, even if it has minor errors or omissions, unless the errors or omissions make the financing statement seriously misleading.

(b) Except as otherwise provided in subsection (c), a financing statement that fails to be authenticated by the debtor or fails sufficiently to provide the name of the debtor in accordance with IC 26-1-9.1-503(a) is seriously misleading.

(c) If a search of the records of the filing office under the debtor's correct name, using the filing office's standard search

logic, if any, would disclose a financing statement that fails to sufficiently provide the name of the debtor in accordance with IC 26-1-9.1-503(a), the name provided does not make the financing statement seriously misleading.

(d) For purposes of IC 26-1-9.1-508(b), the "debtor's correct name" in subsection (c) means the correct name of the new debtor.

Sec. 507. (a) A filed financing statement remains effective with respect to collateral that is sold, exchanged, leased, licensed, or otherwise disposed of and in which a security interest or agricultural lien continues, even if the secured party knows of or consents to the disposition.

(b) Except as otherwise provided in subsection (c) and IC 26-1-9.1-508, a financing statement is not rendered ineffective if, after the financing statement is filed, the information provided in the financing statement becomes seriously misleading under IC 26-1-9.1-506.

(c) If a debtor so changes its name that a filed financing statement becomes seriously misleading under IC 26-1-9.1-506:

- (1) the financing statement is effective to perfect a security interest in collateral acquired by the debtor before, or within four (4) months after, the change; and
- (2) the financing statement is not effective to perfect a security interest in collateral acquired by the debtor more than four (4) months after the change, unless an amendment to the financing statement which renders the financing statement not seriously misleading is filed within four months (4) after the change.

Sec. 508. (a) Except as otherwise provided in this section, a filed financing statement naming an original debtor is effective to perfect a security interest in collateral in which a new debtor has or acquires rights to the extent that the financing statement would have been effective had the original debtor acquired rights in the collateral.

(b) If the difference between the name of the original debtor and that of the new debtor causes a filed financing statement that is effective under subsection (a) to be seriously misleading under IC 26-1-9.1-506:

- (1) the financing statement is effective to perfect a security interest in collateral acquired by the new debtor before, and

within four (4) months after, the new debtor becomes bound under IC 26-1-9.1-203(d); and

(2) the financing statement is not effective to perfect a security interest in collateral acquired by the new debtor more than four (4) months after the new debtor becomes bound under IC 26-1-9.1-203(d) unless an initial financing statement providing the name of the new debtor is filed before the expiration of that time.

(c) This section does not apply to collateral as to which a filed financing statement remains effective against the new debtor under IC 26-1-9.1-507(a).

Sec. 509. (a) A person may file an initial financing statement, amendment that adds collateral covered by a financing statement, or amendment that adds a debtor to a financing statement only if:

(1) either:

(A) the debtor authorizes the filing in an authenticated record or under subsection (b) or (c); or

(B) the person holds an agricultural lien that has become effective at the time of filing and the financing statement covers only collateral in which the person holds an agricultural lien; and

(2) the initial financing statement, amendment that adds collateral covered by a financing statement, or amendment that adds a debtor to a financing statement, is authenticated by the debtors covered by the financing statement.

(b) By authenticating or becoming bound as debtor by a security agreement, a debtor or new debtor authorizes the filing of an initial financing statement, and an amendment, covering:

(1) the collateral described in the security agreement; and

(2) property that becomes collateral under IC 26-1-9.1-315(a)(2), whether or not the security agreement expressly covers proceeds.

(c) By acquiring collateral in which a security interest or agricultural lien continues under IC 26-1-9.1-315(a)(1), a debtor authorizes the filing of an initial financing statement, and an amendment, covering the collateral and property that becomes collateral under IC 26-1-9.1-315(a)(1).

(d) A person may file an amendment other than an amendment that adds collateral covered by a financing statement or an

amendment that adds a debtor to a financing statement only if:

- (1) the secured party of record authorizes the filing; or**
- (2) the amendment is a termination statement for a financing statement as to which the secured party of record has failed to file or send a termination statement as required by IC 26-1-9.1-513(a) or IC 26-1-9.1-513(c), the debtor authorizes the filing, and the termination statement indicates that the debtor authorized it to be filed.**

(e) If there is more than one (1) secured party of record for a financing statement, each secured party of record may authorize the filing of an amendment under subsection (d).

Sec. 510. (a) A filed record is effective only to the extent that it was filed by a person that may file it under IC 26-1-9.1-509.

(b) A record authorized by one secured party of record does not affect the financing statement with respect to another secured party of record.

(c) A continuation statement that is not filed within the six (6) month period prescribed by IC 26-1-9.1-515(d) is ineffective.

Sec. 511. (a) A secured party of record with respect to a financing statement is a person whose name is provided as the name of the secured party or a representative of the secured party in an initial financing statement that has been filed. If an initial financing statement is filed under IC 26-1-9.1-514(a), the assignee named in the initial financing statement is the secured party of record with respect to the financing statement.

(b) If an amendment of a financing statement that provides the name of a person as a secured party or a representative of a secured party is filed, the person named in the amendment is a secured party of record. If an amendment is filed under IC 26-1-9.1-514(b), the assignee named in the amendment is a secured party of record.

(c) A person remains a secured party of record until the filing of an amendment of the financing statement that deletes the person.

Sec. 512. (a) Subject to IC 26-1-9.1-509, a person may add or delete collateral covered by, continue or terminate the effectiveness of, or, subject to subsection (e), otherwise amend the information provided in, a financing statement by filing an amendment that:

- (1) identifies, by its file number, the initial financing statement**

to which the amendment relates; and

(2) if the amendment relates to an initial financing statement filed or recorded in a filing office described in IC 26-1-9.1-501(a)(1), provides the information specified in IC 26-1-9.1-502(b).

(b) Except as otherwise provided in IC 26-1-9.1-515, the filing of an amendment does not extend the period of effectiveness of the financing statement.

(c) A financing statement that is amended by an amendment that adds collateral is effective as to the added collateral only from the date of the filing of the amendment.

(d) A financing statement that is amended by an amendment that adds a debtor is effective as to the added debtor only from the date of the filing of the amendment.

(e) An amendment is ineffective to the extent it:

(1) purports to delete all debtors and fails to provide the name of a debtor to be covered by the financing statement; or

(2) purports to delete all secured parties of record and fails to provide the name of a new secured party of record.

Sec. 513. (a) A secured party shall cause the secured party of record for a financing statement to file a termination statement for the financing statement if the financing statement covers consumer goods and:

(1) there is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value; or

(2) the debtor did not authorize the filing of the initial financing statement.

(b) To comply with subsection (a), a secured party shall cause the secured party of record to file the termination statement:

(1) within one (1) month after there is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value; or

(2) if earlier, within twenty (20) days after the secured party receives an authenticated demand from a debtor.

(c) In cases not governed by subsection (a), within twenty (20) days after a secured party receives an authenticated demand from a debtor, the secured party shall cause the secured party of record

for a financing statement to send to the debtor a termination statement for the financing statement or file the termination statement in the filing office if:

- (1) except in the case of a financing statement covering accounts or chattel paper that has been sold or goods that are the subject of a consignment, there is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value;
- (2) the financing statement covers accounts or chattel paper that has been sold but as to which the account debtor or other person obligated has discharged its obligation;
- (3) the financing statement covers goods that were the subject of a consignment to the debtor but are not in the debtor's possession; or
- (4) the debtor did not authorize the filing of the initial financing statement.

(d) Except as otherwise provided in IC 26-1-9.1-510, upon the filing of a termination statement with the filing office, the financing statement to which the termination statement relates ceases to be effective. Except as otherwise provided in IC 26-1-9.1-510, for purposes of IC 26-1-9.1-519(g), IC 26-1-9.1-522(a), and IC 26-1-9.1-523(c), the filing with the filing office of a termination statement relating to a financing statement that indicates that the debtor is a transmitting utility also causes the effectiveness of the financing statement to lapse.

Sec. 514. (a) Except as otherwise provided in subsection (c), an initial financing statement may reflect an assignment of all of the secured party's power to authorize an amendment to the financing statement by providing the name and mailing address of the assignee as the name and address of the secured party.

(b) Except as otherwise provided in subsection (c), a secured party of record may assign of record all or part of its power to authorize an amendment to a financing statement by filing in the filing office an amendment of the financing statement which:

- (1) identifies, by its file number, the initial financing statement to which it relates;
- (2) provides the name of the assignor; and
- (3) provides the name and mailing address of the assignee.

(c) An assignment of record of a security interest in a fixture covered by a record of a mortgage which is effective as a financing statement filed as a fixture filing under IC 26-1-9.1-502(c) may be made only by an assignment of record of the mortgage in the manner provided by law of this state other than IC 26-1.

Sec. 515. (a) Except as otherwise provided in subsections (b), (e), (f), and (g), a filed financing statement is effective for a period of five (5) years after the date of filing.

(b) Except as otherwise provided in subsections (e), (f), and (g), an initial financing statement filed in connection with a public-finance transaction or manufactured-home transaction is effective for a period of thirty (30) years after the date of filing if it indicates that it is filed in connection with a public-finance transaction or manufactured-home transaction.

(c) The effectiveness of a filed financing statement lapses on the expiration of the period of its effectiveness unless, before the lapse, a continuation statement is filed pursuant to subsection (d). Upon lapse, a financing statement ceases to be effective and any security interest or agricultural lien that was perfected by the financing statement becomes unperfected, unless the security interest is perfected otherwise. If the security interest or agricultural lien becomes unperfected upon lapse, it is considered never to have been perfected as against a purchaser of the collateral for value.

(d) A continuation statement may be filed only within six (6) months before the expiration of the five (5) year period specified in subsection (a) or the thirty (30) year period specified in subsection (b), whichever is applicable.

(e) Except as otherwise provided in IC 26-1-9.1-510, upon timely filing of a continuation statement, the effectiveness of the initial financing statement continues for a period of five (5) years commencing on the day on which the financing statement would have become ineffective in the absence of the filing. Upon the expiration of the five (5) year period, the financing statement lapses in the same manner as provided in subsection (c), unless, before the lapse, another continuation statement is filed pursuant to subsection (d). Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the initial financing statement.

(f) If a debtor is a transmitting utility and a filed financing

statement so indicates, the financing statement is effective until a termination statement is filed.

(g) A record of a mortgage that is effective as a financing statement filed as a fixture filing under IC 26-1-9.1-502(c) remains effective as a financing statement filed as a fixture filing until the mortgage is released or satisfied of record or its effectiveness otherwise terminates as to the real property.

Sec. 516. (a) Except as otherwise provided in subsection (b), communication of a record to a filing office and tender of the filing fee or acceptance of the record by the filing office constitutes filing.

(b) Filing does not occur with respect to a record that a filing office refuses to accept because:

(1) the record is not communicated by a method or medium of communication authorized by the filing office;

(2) an amount equal to or greater than the applicable filing fee is not tendered;

(3) the filing office is unable to index the record because:

(A) in the case of an initial financing statement, the record does not provide a name for the debtor;

(B) in the case of an amendment or correction statement, the record:

(i) does not identify the initial financing statement as required by IC 26-1-9.1-512 or IC 26-1-9.1-518, as applicable; or

(ii) identifies an initial financing statement whose effectiveness has lapsed under IC 26-1-9.1-515;

(C) in the case of an initial financing statement that provides the name of a debtor identified as an individual or an amendment that provides a name of a debtor identified as an individual which was not previously provided in the financing statement to which the record relates, the record does not identify the debtor's last name; or

(D) in the case of a record recorded in the filing office described in IC 26-1-9.1-501(a)(1), the record does not provide a sufficient description of the real property to which it relates;

(4) in the case of an initial financing statement or an amendment that adds a secured party of record, the record does not provide a name and mailing address for the secured

party of record;

(5) in the case of an initial financing statement or an amendment that provides a name of a debtor that was not previously provided in the financing statement to which the amendment relates, the record does not:

(A) provide a mailing address for the debtor;

(B) indicate whether the debtor is an individual or an organization; or

(C) if the financing statement indicates that the debtor is an organization, provide:

(i) a type of organization for the debtor;

(ii) a jurisdiction of organization for the debtor; or

(iii) an organizational identification number for the debtor or indicate that the debtor has none;

(6) in the case of an assignment reflected in an initial financing statement under IC 26-1-9.1-514(a) or an amendment filed under IC 26-1-9.1-514(b), the record does not provide a name and mailing address for the assignee; or

(7) in the case of a continuation statement, the record is not filed within the six (6) month period prescribed by IC 26-1-9.1-515(d).

(c) For purposes of subsection (b):

(1) a record does not provide information if the filing office is unable to read or decipher the information; and

(2) a record that does not indicate that it is an amendment or identify an initial financing statement to which it relates, as required by IC 26-1-9.1-512, IC 26-1-9.1-514, or IC 26-1-9.1-518, is an initial financing statement.

(d) A record that is communicated to the filing office with tender of the filing fee, but which the filing office refuses to accept for a reason other than one (1) set forth in subsection (b), is effective as a filed record except as against a purchaser of the collateral which gives value in reasonable reliance upon the absence of the record from the files.

Sec. 517. The failure of the filing office to index a record correctly does not affect the effectiveness of the filed record.

Sec. 518. (a) A person may file in the filing office a correction statement with respect to a record indexed there under the person's name if the person believes that the record is inaccurate or was

wrongfully filed.

(b) A correction statement must:

- (1) identify the record to which it relates by the file number assigned to the initial financing statement to which the record relates;
- (2) indicate that it is a correction statement; and
- (3) provide the basis for the person's belief that the record is inaccurate and indicate the manner in which the person believes the record should be amended to cure any inaccuracy or provide the basis for the person's belief that the record was wrongfully filed.

(c) The filing of a correction statement does not affect the effectiveness of an initial financing statement or other filed record.

Sec. 519. (a) For each record filed in a filing office, the filing office shall:

- (1) assign a unique number to the filed record;
- (2) create a record that bears the number assigned to the filed record and the date and time of filing;
- (3) maintain the filed record for public inspection; and
- (4) index the filed record in accordance with subsections (c), (d), and (e).

(b) A file number must include a digit that:

- (1) is mathematically derived from or related to the other digits of the file number; and
- (2) aids the filing office in determining whether a number communicated as the file number includes a single-digit or transpositional error.

(c) Except as otherwise provided in subsections (d) and (e), the filing office shall:

- (1) index an initial financing statement according to the name of the debtor and index all filed records relating to the initial financing statement in a manner that associates with one another an initial financing statement and all filed records relating to the initial financing statement; and
- (2) index a record that provides a name of a debtor that was not previously provided in the financing statement to which the record relates also according to the name that was not previously provided.

(d) If a financing statement is filed as a fixture filing or covers

as-extracted collateral or timber to be cut, the filing office shall index it:

(1) under the names of the debtor and of each owner of record shown on the financing statement as if they were the mortgagors under a mortgage of the real property described; and

(2) to the extent that the law of this state provides for indexing of records of mortgages under the name of the mortgagee, under the name of the secured party as if the secured party were the mortgagee thereunder, or, if indexing is by description, as if the financing statement were a record of a mortgage of the real property described.

(e) If a financing statement is filed as a fixture filing or covers as-extracted collateral or timber to be cut, the filing office shall index an assignment filed under IC 26-1-9.1-514(a) or an amendment filed under IC 26-1-9.1-514(b):

(1) under the name of the assignor as grantor; and

(2) to the extent that the law of this state provides for indexing a record of the assignment of a mortgage under the name of the assignee, under the name of the assignee.

(f) The filing office shall maintain a capability:

(1) to retrieve a record by the name of the debtor and by the file number assigned to the initial financing statement to which the record relates; and

(2) to associate and retrieve with one another an initial financing statement and each filed record relating to the initial financing statement.

(g) The filing office may not remove a debtor's name from the index until one (1) year after the effectiveness of a financing statement naming the debtor lapses under IC 26-1-9.1-515 with respect to all secured parties of record.

(h) The filing office shall perform the acts required by subsections (a) through (e) at the time and in the manner prescribed by filing-office rule, but not later than two (2) business days after the filing office receives the record in question.

(i) Subsections (b) and (h) do not apply to a filing office described in IC 26-1-9.1-501(a)(1).

Sec. 520. (a) A filing office shall refuse to accept a record for filing for a reason set forth in IC 26-1-9.1-516(b) and may refuse to

accept a record for filing only for a reason set forth in IC 26-1-9.1-516(b).

(b) If a filing office refuses to accept a record for filing, it shall communicate to the person that presented the record the fact of and reason for the refusal and the date and time the record would have been filed had the filing office accepted it. The communication must be made at the time and in the manner prescribed by filing-office rule, but in the case of a filing office described in IC 26-1-9.1-501(a)(2), in no event more than two (2) business days after the filing office receives the record.

(c) A filed financing statement satisfying IC 26-1-9.1-502(a) and IC 26-1-9.1-502(b) is effective, even if the filing office is required to refuse to accept it for filing under subsection (a). However, IC 26-1-9.1-338 applies to a filed financing statement providing information described in IC 26-1-9.1-516(b)(5) that is incorrect at the time the financing statement is filed.

(d) If a record communicated to a filing office provides information that relates to more than one (1) debtor, IC 26-1-9.1-501 through IC 26-1-9.1-527 apply as to each debtor separately.

Sec. 521. (a) A filing office that accepts written records may not refuse to accept a written initial financing statement in the form specified in IC 26-1-1.5 and format except for a reason set forth in IC 26-1-9.1-516(b).

(b) A filing office that accepts written records may not refuse to accept a written record in the form specified in IC 26-1-1.5 and format except for a reason described in IC 26-9.1-516(b).

Sec. 522. (a) The filing office shall maintain a record of the information provided in a filed financing statement for at least one (1) year after the effectiveness of the financing statement has lapsed under IC 26-1-9.1-515 with respect to all secured parties of record. The record must be retrievable by using the name of the debtor and by using the file number assigned to the initial financing statement to which the record relates.

(b) Except to the extent that a statute governing disposition of public records provides otherwise, the filing office immediately may destroy any written record evidencing a financing statement. However, if the filing office destroys a written record, it shall maintain another record of the financing statement that complies

with subsection (a).

Sec. 523. (a) If a person that files a written record requests an acknowledgment of the filing, the filing office shall send to the person an image of the record showing the number assigned to the record pursuant to IC 26-1-9.1-519(a)(1) and the date and time of the filing of the record. However, if the person furnishes a copy of the record to the filing office, the filing office may instead:

- (1) note upon the copy the number assigned to the record pursuant to IC 26-1-9.1-519(a)(1) and the date and time of the filing of the record; and
- (2) send the copy to the person.

(b) If a person files a record other than a written record, the filing office shall communicate to the person an acknowledgment that provides:

- (1) the information in the record;
- (2) the number assigned to the record pursuant to IC 26-1-9.1-519(a)(1); and
- (3) the date and time of the filing of the record.

(c) The filing office shall communicate or otherwise make available in a record the following information to any person that requests it:

- (1) whether there is on file on a date and time specified by the filing office, but not a date earlier than three (3) business days before the filing office receives the request, any financing statement that:
 - (A) designates a particular debtor or, if the request so states, designates a particular debtor at the address specified in the request;
 - (B) has not lapsed under IC 26-1-9.1-515 with respect to all secured parties of record; and
 - (C) if the request so states, has lapsed under IC 26-1-9.1-515 and a record of which is maintained by the filing office under IC 26-1-9.1-522(a);
- (2) the date and time of filing of each financing statement; and
- (3) the information provided in each financing statement.

(d) In complying with its duty under subsection (c), the filing office may communicate information in any medium. However, if requested, the filing office shall communicate information by issuing its written certificate.

(e) The filing office shall perform the acts required by subsections (a) through (d) at the time and in the manner prescribed by filing-office rule, but not later than two (2) business days after the filing office receives the request.

(f) At least weekly, the secretary of state shall offer to sell or license to the public on a nonexclusive basis, in bulk, copies of all records filed in it under this part, in every medium from time to time available to the filing office.

Sec. 524. Delay by the filing office beyond a time limit prescribed in IC 26-1-9.1-501 through IC 26-1-9.1-527 is excused if:

- (1) the delay is caused by interruption of communication or computer facilities, war, emergency conditions, failure of equipment, or other circumstances beyond control of the filing office; and
- (2) the filing office exercises reasonable diligence under the circumstances.

Sec. 525. (a) Except as otherwise provided in subsection (e), the fee for filing and indexing a record under this part, other than an initial financing statement of the kind described in IC 26-1-9.1-502(c), is:

- (1) four dollars (\$4) if the record is communicated in writing and consists of one (1) or two (2) pages;
- (2) eight dollars (\$8) if the record is communicated in writing and consists of more than two (2) pages; and
- (3) four dollars (\$4) if the record is communicated by another medium authorized by filing-office rule.

(b) Except as otherwise provided in subsection (e), the fee for filing and indexing an initial financing statement of the kind described in IC 26-1-9.1-502(c) is the amount specified in subsection (c), if applicable, plus:

- (1) eight dollars (\$8) if the financing statement indicates that it is filed in connection with a public-finance transaction; and
- (2) eight dollars (\$8) if the financing statement indicates that it is filed in connection with a manufactured-home transaction.

(c) Except as otherwise provided in subsection (e), if a record is communicated in writing, the fee for each name more than two (2) required to be indexed is one dollar (\$1).

(d) The fee for responding to a request for information from the filing office, including for issuing a certificate showing whether there is on file any financing statement naming a particular debtor, is:

- (1) one dollar (\$1) if the request is communicated in writing; and**
- (2) one dollar (\$1) if the request is communicated by another medium authorized by filing-office rule.**

(e) This section does not require a fee with respect to a record of a mortgage which is effective as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut under IC 26-1-9.1-502(c). However, the recording and satisfaction fees that otherwise would be applicable to the record of the mortgage apply.

Sec. 526. (a) The secretary of state shall adopt and publish rules to implement IC 26-1-9.1. The filing-office rules must be consistent with IC 26-1-9.1.

(b) To keep the filing-office rules and practices of the filing office in harmony with the rules and practices of filing offices in other jurisdictions that enact substantially this part, and to keep the technology used by the filing office compatible with the technology used by filing offices in other jurisdictions that enact substantially this part, the secretary of state, so far as is consistent with the purposes, policies, and provisions of IC 26-1-9.1, in adopting, amending, and repealing filing-office rules, shall:

- (1) consult with filing offices in other jurisdictions that enact substantially this part;**
- (2) consult the most recent version of the Model Rules promulgated by the International Association of Corporate Administrators or any successor organization; and**
- (3) take into consideration the rules and practices of, and the technology used by, filing offices in other jurisdictions that enact substantially this part.**

Sec. 527. The secretary of state shall report annually to the general assembly on the operation of the filing office. The report must contain a statement of the extent to which:

- (1) the filing-office rules are not in harmony with the rules of filing offices in other jurisdictions that enact substantially IC 26-1-9.1-501 through IC 26-1-9.1-527 and the reasons for**

these variations; and

(2) the filing-office rules are not in harmony with the most recent version of the Model Rules promulgated by the International Association of Corporate Administrators, or any successor organization, and the reasons for these variations.

Sec. 601. (a) After default, a secured party has the rights provided in this section through IC 26-1-9.1-628 and, except as otherwise provided in IC 26-1-9.1-602, those provided by agreement of the parties. A secured party:

(1) may reduce a claim to judgment, foreclose, or otherwise enforce the claim, security interest, or agricultural lien by any available judicial procedure; and

(2) if the collateral is documents, may proceed either as to the documents or as to the goods they cover.

(b) A secured party in possession of collateral or control of collateral under IC 26-1-9.1-104, IC 26-1-9.1-105, IC 26-1-9.1-106, or IC 26-1-9.1-107 has the rights and duties provided in IC 26-1-9.1-207.

(c) The rights under subsections (a) and (b) are cumulative and may be exercised simultaneously.

(d) Except as otherwise provided in subsection (g) and IC 26-1-9.1-605, after default, a debtor and an obligor have the rights provided in IC 26-1-9.1-601 through IC 26-1-9.1-628 and by agreement of the parties.

(e) If a secured party has reduced its claim to judgment, the lien of any levy that may be made upon the collateral by virtue of an execution based upon the judgment relates back to the earliest of:

(1) the date of perfection of the security interest or agricultural lien in the collateral;

(2) the date of filing a financing statement covering the collateral; or

(3) any date specified in a statute under which the agricultural lien was created.

(f) A sale pursuant to an execution is a foreclosure of the security interest or agricultural lien by judicial procedure within the meaning of this section. A secured party may purchase at the sale and thereafter hold the collateral free of any other requirements of IC 26-1-9.1.

(g) Except as otherwise provided in IC 26-1-9.1-607(c), IC 26-1-9.1-601 through IC 26-1-9.1-628 impose no duties upon a secured party that is a consignor or is a buyer of accounts, chattel paper, payment intangibles, or promissory notes.

Sec. 602. Except as otherwise provided in IC 26-1-9.1-624, to the extent that they give rights to a debtor or obligor and impose duties on a secured party, the debtor or obligor may not waive or vary the rules stated in the following listed sections:

- (1) IC 26-1-9.1-207(b)(4)(C), which deals with use and operation of the collateral by the secured party.
- (2) IC 26-1-9.1-210, which deals with requests for an accounting and requests concerning a list of collateral and statement of account.
- (3) IC 26-1-9.1-607(c), which deals with collection and enforcement of collateral.
- (4) IC 26-1-9.1-608(a) and IC 26-1-9.1-615(c) to the extent that they deal with application or payment of noncash proceeds of collection, enforcement, or disposition.
- (5) IC 26-1-9.1-608(a) and IC 26-1-9.1-615(d) to the extent that they require accounting for or payment of surplus proceeds of collateral.
- (6) IC 26-1-9.1-609 to the extent that it imposes upon a secured party that takes possession of collateral without judicial process the duty to do so without breach of the peace.
- (7) IC 26-1-9.1-610(b), IC 26-1-9.1-611, IC 26-1-9.1-613, and IC 26-1-9.1-614, which deal with disposition of collateral.
- (8) IC 26-1-9.1-615(f), which deals with calculation of a deficiency or surplus when a disposition is made to the secured party, a person related to the secured party, or a secondary obligor.
- (9) IC 26-1-9.1-616, which deals with explanation of the calculation of a surplus or deficiency.
- (10) IC 26-1-9.1-620, IC 26-1-9.1-621, and IC 26-1-9.1-622, which deal with acceptance of collateral in satisfaction of obligation.
- (11) IC 26-1-9.1-623, which deals with redemption of collateral.
- (12) IC 26-1-9.1-624, which deals with permissible waivers.
- (13) IC 26-1-9.1-625 and IC 26-1-9.1-626, which deal with the

secured party's liability for failure to comply with IC 26-1-9.1.

Sec. 603. (a) The parties may determine by agreement the standards measuring the fulfillment of the rights of a debtor or obligor and the duties of a secured party under a rule stated in IC 26-1-9.1-602 if the standards are not manifestly unreasonable.

(b) Subsection (a) does not apply to the duty under IC 26-1-9.1-609 to refrain from breaching the peace.

Sec. 604. (a) If a security agreement covers both personal and real property, a secured party may proceed:

(1) under IC 26-1-9.1-601 through IC 26-1-9.1-628 as to the personal property without prejudicing any rights with respect to the real property; or

(2) as to both the personal property and the real property in accordance with the rights with respect to the real property, in which case the other provisions of IC 26-1-9.1-601 through IC 26-1-9.1-628 do not apply.

(b) Subject to subsection (c), if a security agreement covers goods that are or become fixtures, a secured party may proceed:

(1) under IC 26-1-9.1-601 through IC 26-1-9.1-628; or

(2) in accordance with the rights with respect to real property, in which case the other provisions of IC 26-1-9.1-601 through IC 26-1-9.1-628 do not apply.

(c) Subject to the other provisions of IC 26-1-9.1-601 through IC 26-1-9.1-628, if a secured party holding a security interest in fixtures has priority over all owners and encumbrancers of the real property, the secured party, after default, may remove the collateral from the real property.

(d) A secured party that removes collateral shall promptly reimburse any encumbrancer or owner of the real property, other than the debtor, for the cost of repair of any physical injury caused by the removal. The secured party need not reimburse the encumbrancer or owner for any diminution in value of the real property caused by the absence of the goods removed or by any necessity of replacing them. A person entitled to reimbursement may refuse permission to remove until the secured party gives adequate assurance for the performance of the obligation to reimburse.

Sec. 605. A secured party does not owe a duty based on its status as secured party:

(1) to a person that is a debtor or obligor, unless the secured party knows:

(A) that the person is a debtor or obligor;

(B) the identity of the person; and

(C) how to communicate with the person; or

(2) to a secured party or lienholder that has filed a financing statement against a person, unless the secured party knows:

(A) that the person is a debtor; and

(B) the identity of the person.

Sec. 606. For purposes of IC 26-1-9.1-601 through IC 26-1-9.1-628, a default occurs in connection with an agricultural lien at the time the secured party becomes entitled to enforce the lien in accordance with the statute under which it was created.

Sec. 607. (a) If so agreed, and in any event after default, a secured party:

(1) may notify an account debtor or other person obligated on collateral to make payment or otherwise render performance to or for the benefit of the secured party;

(2) may take any proceeds to which the secured party is entitled under IC 26-1-9.1-315;

(3) may enforce the obligations of an account debtor or other person obligated on collateral and exercise the rights of the debtor with respect to the obligation of the account debtor or other person obligated on collateral to make payment or otherwise render performance to the debtor, and with respect to any property that secures the obligations of the account debtor or other person obligated on the collateral;

(4) if it holds a security interest in a deposit account perfected by control under IC 26-1-9.1-104(a)(1), may apply the balance of the deposit account to the obligation secured by the deposit account; and

(5) if it holds a security interest in a deposit account perfected by control under IC 26-1-9.1-104(a)(2) or IC 26-1-9.1-104-(a)(3), may instruct the bank to pay the balance of the deposit account to or for the benefit of the secured party.

(b) If necessary to enable a secured party to exercise under subsection (a)(3) the right of a debtor to enforce a mortgage nonjudicially, the secured party may record in the office in which

a record of the mortgage is recorded:

(1) a copy of the security agreement that creates or provides for a security interest in the obligation secured by the mortgage; and

(2) the secured party's sworn affidavit in recordable form stating that:

(A) a default has occurred; and

(B) the secured party is entitled to enforce the mortgage nonjudicially.

(c) A secured party shall proceed in a commercially reasonable manner if the secured party:

(1) undertakes to collect from or enforce an obligation of an account debtor or other person obligated on collateral; and

(2) is entitled to charge back uncollected collateral or otherwise to full or limited recourse against the debtor or a secondary obligor.

(d) A secured party may deduct from the collections made pursuant to subsection (c) reasonable expenses of collection and enforcement, including reasonable attorney's fees and legal expenses incurred by the secured party.

(e) This section does not determine whether an account debtor, bank, or other person obligated on collateral owes a duty to a secured party.

Sec. 608. (a) If a security interest or agricultural lien secures payment or performance of an obligation, the following rules apply:

(1) A secured party shall apply or pay over for application the cash proceeds of collection or enforcement under IC 26-1-9.1-607 in the following order to:

(A) the reasonable expenses of collection and enforcement and, to the extent provided for by agreement and not prohibited by law, reasonable attorney's fees and legal expenses incurred by the secured party;

(B) the satisfaction of obligations secured by the security interest or agricultural lien under which the collection or enforcement is made; and

(C) the satisfaction of obligations secured by any subordinate security interest in or other lien on the collateral subject to the security interest or agricultural

lien under which the collection or enforcement is made if the secured party receives an authenticated demand for proceeds before distribution of the proceeds is completed.

(2) If requested by a secured party, a holder of a subordinate security interest or other lien shall furnish reasonable proof of the interest or lien within a reasonable time. Unless the holder complies, the secured party need not comply with the holder's demand under subdivision (1)(C).

(3) A secured party need not apply or pay over for application noncash proceeds of collection and enforcement under IC 26-1-9.1-607 unless the failure to do so would be commercially unreasonable. A secured party that applies or pays over for application noncash proceeds shall do so in a commercially reasonable manner.

(4) A secured party shall account to and pay a debtor for any surplus, and the obligor is liable for any deficiency.

(b) If the underlying transaction is a sale of accounts, chattel paper, payment intangibles, or promissory notes, the debtor is not entitled to any surplus, and the obligor is not liable for any deficiency.

Sec. 609. (a) After default, a secured party:

(1) may take possession of the collateral; and

(2) without removal, may render equipment unusable and dispose of collateral on a debtor's premises under IC 26-1-9.1-610.

(b) A secured party may proceed under subsection (a):

(1) pursuant to judicial process; or

(2) without judicial process, if it proceeds without breach of the peace.

(c) If so agreed, and in any event after default, a secured party may require the debtor to assemble the collateral and make it available to the secured party at a place to be designated by the secured party which is reasonably convenient to both parties.

Sec. 610. (a) After default, a secured party may sell, lease, license, or otherwise dispose of any or all of the collateral in its present condition or following any commercially reasonable preparation or processing.

(b) Every aspect of a disposition of collateral, including the method, manner, time, place, and other terms, must be

commercially reasonable. If commercially reasonable, a secured party may dispose of collateral by public or private proceedings, by one or more contracts, as a unit or in parcels, and at any time and place and on any terms.

(c) A secured party may purchase collateral:

- (1) at a public disposition; or
- (2) at a private disposition only if the collateral is of a kind that is customarily sold on a recognized market or the subject of widely distributed standard price quotations.

(d) A contract for sale, lease, license, or other disposition includes the warranties relating to title, possession, quiet enjoyment, and the like, which by operation of law accompany a voluntary disposition of property of the kind subject to the contract.

(e) A secured party may disclaim or modify warranties under subsection (d):

- (1) in a manner that would be effective to disclaim or modify the warranties in a voluntary disposition of property of the kind subject to the contract of disposition; or
- (2) by communicating to the purchaser a record evidencing the contract for disposition and including an express disclaimer or modification of the warranties.

(f) A record is sufficient to disclaim warranties under subsection (e) if it indicates "There is no warranty relating to title, possession, quiet enjoyment, or the like in this disposition" or uses words of similar import.

Sec. 611. (a) As used in this section, "notification date" means the earlier of the date on which:

- (1) a secured party sends to the debtor and any secondary obligor an authenticated notification of disposition; or
- (2) the debtor and any secondary obligor waive the right to notification.

(b) Except as otherwise provided in subsection (d), a secured party that disposes of collateral under IC 26-1-9.1-610 shall send to the persons specified in subsection (c) a reasonable authenticated notification of disposition.

(c) To comply with subsection (b), the secured party shall send an authenticated notification of disposition to:

- (1) the debtor;

- (2) any secondary obligor; and**
- (3) if the collateral is other than consumer goods:**
 - (A) any other person from which the secured party has received, before the notification date, an authenticated notification of a claim of an interest in the collateral;**
 - (B) any other secured party or lienholder that, ten (10) days before the notification date, held a security interest in or other lien on the collateral perfected by the filing of a financing statement that:**
 - (i) identified the collateral;**
 - (ii) was indexed under the debtor's name as of that date; and**
 - (iii) was filed in the office in which to file a financing statement against the debtor covering the collateral as of that date; and**
 - (C) any other secured party that, ten (10) days before the notification date, held a security interest in the collateral perfected by compliance with a statute, regulation, or treaty described in IC 26-1-9.1-311(a).**

(d) Subsection (b) does not apply if the collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market.

(e) A secured party complies with the requirement for notification prescribed in subsection (c)(3)(B) if:

- (1) not later than twenty (20) days or earlier than thirty (30) days before the notification date, the secured party requests, in a commercially reasonable manner, information concerning financing statements indexed under the debtor's name in the office indicated in subsection (c)(3)(B); and**
- (2) before the notification date, the secured party:**
 - (A) did not receive a response to the request for information; or**
 - (B) received a response to the request for information and sent an authenticated notification of disposition to each secured party or other lienholder named in that response whose financing statement covered the collateral.**

Sec. 612. (a) Except as otherwise provided in subsection (b), whether a notification is sent within a reasonable time is a question of fact.

(b) In a transaction other than a consumer transaction, a notification of disposition sent after default and ten (10) days or more before the earliest time of disposition set forth in the notification is sent within a reasonable time before the disposition.

Sec. 613. Except in a consumer-goods transaction, the following rules apply:

(1) The contents of a notification of disposition are sufficient if the notification:

(A) describes the debtor and the secured party;

(B) describes the collateral that is the subject of the intended disposition;

(C) states the method of intended disposition;

(D) states that the debtor is entitled to an accounting of the unpaid indebtedness and states the charge, if any, for an accounting; and

(E) states the time and place of a public disposition or the time after which any other disposition is to be made.

(2) Whether the contents of a notification that lacks any of the information specified in subdivision (1) are nevertheless sufficient is a question of fact.

(3) The contents of a notification providing substantially the information specified in subdivision (1) are sufficient, even if the notification includes:

(A) information not specified by that subdivision; or

(B) minor errors that are not seriously misleading.

(4) A particular phrasing of the notification is not required.

(5) The following form of notification and the form appearing in IC 26-1-9.1-614(3), when completed, each provides sufficient information:

NOTIFICATION OF DISPOSITION OF COLLATERAL

To: Name of debtor, obligor, or other person to which the notification is sent

From: Name, address, and telephone number of secured party

Name of Debtor(s): Include only if debtor(s) are not an addressee

(For a public disposition:)

We will sell (or lease or license, as applicable) the describe collateral to the highest qualified bidder in public as follows:

Day and Date: __

Time: __

Place: __

(For a private disposition:)

We will sell (or lease or license, as applicable) the describe collateral privately sometime after day and date.

You are entitled to an accounting of the unpaid indebtedness secured by the property that we intend to sell (or lease or license, as applicable) (for a charge of \$). You may request an accounting by calling us at telephone number.

(End of Form)

Sec. 614. In a consumer-goods transaction, the following rules apply:

(1) A notification of disposition must provide the following information:

(A) The information specified in IC 26-1-9.1-613(1).

(B) A description of any liability for a deficiency of the person to which the notification is sent.

(C) A telephone number from which the amount that must be paid to the secured party to redeem the collateral under IC 26-1-9.1-623 is available.

(D) A telephone number or mailing address from which additional information concerning the disposition and the obligation secured is available.

(2) A particular phrasing of the notification is not required.

(3) The following form of notification, when completed, provides sufficient information:

Name and address of secured party

Date

NOTICE OF OUR PLAN TO SELL PROPERTY

Name and address of any obligor who is also a debtor

Subject: Identification of Transaction

We have your describe collateral, because you broke promises in our agreement.

(For a public disposition:)

We will sell describe collateral at public sale. A sale could include a lease or license. The sale will be held as follows:

Date: __

Time: __

Place:

You may attend the sale and bring bidders if you want.

(For a private disposition:)

We will sell describe collateral at private sale sometime after date.

A sale could include a lease or license.

The money that we get from the sale (after paying our costs) will reduce the amount you owe. If we get less money than you owe, you will or will not, as applicable still owe us the difference. If we get more money than you owe, you will get the extra money, unless we must pay it to someone else.

You can get the property back at any time before we sell it by paying us the full amount you owe (not just the past due payments), including our expenses. To learn the exact amount you must pay, call us at telephone number.

If you want us to explain to you in writing how we have figured the amount that you owe us, you may call us at telephone number or write us at secured party's address and request a written explanation. We will charge you \$ for the explanation if we sent you another written explanation of the amount you owe us within the last six (6) months.

If you need more information about the sale call us at telephone number or write us at secured party's address.

We are sending this notice to the following other people who have an interest in describe collateral or who owe money under your agreement:

Names of all other debtors and obligors, if any.

(End of Form)

(4) A notification in the form of subdivision (3) is sufficient, even if additional information appears at the end of the form.

(5) A notification in the form of subdivision (3) is sufficient, even if it includes errors in information not required by subdivision (1), unless the error is misleading with respect to rights arising under IC 26-1-9.1.

(6) If a notification under this section is not in the form of subdivision (3), law other than IC 26-1-9.1 determines the effect of including information not required by subdivision (1).

Sec. 615. (a) A secured party shall apply or pay over for application the cash proceeds of disposition under IC 26-1-9.1-610

in the following order to:

(1) the reasonable expenses of retaking, holding, preparing for disposition, processing, and disposing, and, to the extent provided for by agreement and not prohibited by law, reasonable attorney's fees and legal expenses incurred by the secured party;

(2) the satisfaction of obligations secured by the security interest or agricultural lien under which the disposition is made;

(3) the satisfaction of obligations secured by any subordinate security interest in or other subordinate lien on the collateral if:

(A) the secured party receives from the holder of the subordinate security interest or other lien an authenticated demand for proceeds before distribution of the proceeds is completed; and

(B) in a case in which a consignor has an interest in the collateral, the subordinate security interest or other lien is senior to the interest of the consignor; and

(4) a secured party that is a consignor of the collateral if the secured party receives from the consignor an authenticated demand for proceeds before distribution of the proceeds is completed.

(b) If requested by a secured party, a holder of a subordinate security interest or other lien shall furnish reasonable proof of the interest or lien within a reasonable time. Unless the holder does so, the secured party need not comply with the holder's demand under subsection (a)(3).

(c) A secured party need not apply or pay over for application noncash proceeds of disposition under IC 26-1-9.1-610 unless the failure to do so would be commercially unreasonable. A secured party that applies or pays over for application noncash proceeds shall do so in a commercially reasonable manner.

(d) If the security interest under which a disposition is made secures payment or performance of an obligation, after making the payments and applications required by subsection (a) and permitted by subsection (c):

(1) unless subsection (a)(4) requires the secured party to apply or pay over cash proceeds to a consignor, the secured party

shall account to and pay a debtor for any surplus; and
(2) the obligor is liable for any deficiency.

(e) If the underlying transaction is a sale of accounts, chattel paper, payment intangibles, or promissory notes:

(1) the debtor is not entitled to any surplus; and
(2) the obligor is not liable for any deficiency.

(f) The surplus or deficiency following a disposition is calculated based on the amount of proceeds that would have been realized in a disposition complying with IC 26-1-9.1-601 through IC 26-1-9.1-628 to a transferee other than the secured party, a person related to the secured party, or a secondary obligor if:

(1) the transferee in the disposition is the secured party, a person related to the secured party, or a secondary obligor; and
(2) the amount of proceeds of the disposition is significantly below the range of proceeds that a complying disposition to a person other than the secured party, a person related to the secured party, or a secondary obligor would have brought.

(g) A secured party that receives cash proceeds of a disposition in good faith and without knowledge that the receipt violates the rights of the holder of a security interest or other lien that is not subordinate to the security interest or agricultural lien under which the disposition is made:

(1) takes the cash proceeds free of the security interest or other lien;
(2) is not obligated to apply the proceeds of the disposition to the satisfaction of obligations secured by the security interest or other lien; and
(3) is not obligated to account to or pay the holder of the security interest or other lien for any surplus.

Sec. 616. (a) As used in this section:

(1) "Explanation" means a writing that:
(A) states the amount of the surplus or deficiency;
(B) provides an explanation in accordance with subsection (c) of how the secured party calculated the surplus or deficiency;
(C) states, if applicable, that future debits, credits, charges, including additional credit service charges or interest, rebates, and expenses may affect the amount of the surplus

or deficiency; and

(D) provides a telephone number or mailing address from which additional information concerning the transaction is available.

(2) "Request" means a record:

(A) authenticated by a debtor or consumer obligor;

(B) requesting that the recipient provide an explanation; and

(C) sent after disposition of the collateral under IC 26-1-9.1-610.

(b) In a consumer-goods transaction in which the debtor is entitled to a surplus or a consumer obligor is liable for a deficiency under IC 26-1-9.1-615, the secured party shall:

(1) send an explanation to the debtor or consumer obligor, as applicable, after the disposition and:

(A) before or when the secured party accounts to the debtor and pays any surplus or first makes written demand on the consumer obligor after the disposition for payment of the deficiency; and

(B) within fourteen (14) days after receipt of a request; or

(2) in the case of a consumer obligor who is liable for a deficiency, within fourteen (14) days after receipt of a request, send to the consumer obligor a record waiving the secured party's right to a deficiency.

(c) To comply with subsection (a)(1)(B), a writing must provide the following information in the following order:

(1) the aggregate amount of obligations secured by the security interest under which the disposition was made, and, if the amount reflects a rebate of unearned interest or credit service charge, an indication of that fact, calculated as of a specified date:

(A) if the secured party takes or receives possession of the collateral after default, not more than thirty-five (35) days before the secured party takes or receives possession; or

(B) if the secured party takes or receives possession of the collateral before default or does not take possession of the collateral, not more than thirty-five (35) days before the disposition;

(2) the amount of proceeds of the disposition;

(3) the aggregate amount of the obligations after deducting the amount of proceeds;

(4) the amount, in the aggregate or by type, and types of expenses, including expenses of retaking, holding, preparing for disposition, processing, and disposing of the collateral, and attorney's fees secured by the collateral that are known to the secured party and relate to the current disposition;

(5) the amount, in the aggregate or by type, and types of credits, including rebates of interest or credit service charges, to which the obligor is known to be entitled and that are not reflected in the amount in paragraph (1); and

(6) the amount of the surplus or deficiency.

(d) A particular phrasing of the explanation is not required. An explanation complying substantially with the requirements of subsection (a) is sufficient, even if it includes minor errors that are not seriously misleading.

(e) A debtor or consumer obligor is entitled without charge to one (1) response to a request under this section during any six (6) month period in which the secured party did not send to the debtor or consumer obligor an explanation pursuant to subsection (b)(1). The secured party may require payment of a charge not exceeding twenty-five dollars (\$25) for each additional response.

Sec. 617. (a) A secured party's disposition of collateral after default:

(1) transfers to a transferee for value all of the debtor's rights in the collateral;

(2) discharges the security interest under which the disposition is made; and

(3) discharges any subordinate security interest or other subordinate lien.

(b) A transferee that acts in good faith takes free of the rights and interests described in subsection (a), even if the secured party fails to comply with IC 26-1-9.1 or the requirements of any judicial proceeding.

(c) If a transferee does not take free of the rights and interests described in subsection (a), the transferee takes the collateral subject to:

(1) the debtor's rights in the collateral;

(2) the security interest or agricultural lien under which the

disposition is made; and

(3) any security interest or other lien.

Sec. 618. (a) A secondary obligor acquires the rights and becomes obligated to perform the duties of the secured party after the secondary obligor:

(1) receives an assignment of a secured obligation from the secured party;

(2) receives a transfer of collateral from the secured party and agrees to accept the rights and assume the duties of the secured party; or

(3) is subrogated to the rights of a secured party with respect to collateral.

(b) An assignment, transfer, or subrogation described in subsection (a):

(1) is not a disposition of collateral under IC 26-1-9.1-610; and

(2) relieves the secured party of further duties under IC 26-1-9.1.

Sec. 619. (a) In this section, "transfer statement" means a record authenticated by a secured party stating:

(1) that the debtor has defaulted in connection with an obligation secured by specified collateral;

(2) that the secured party has exercised its post-default remedies with respect to the collateral;

(3) that, by reason of the exercise, a transferee has acquired the rights of the debtor in the collateral; and

(4) the name and mailing address of the secured party, debtor, and transferee.

(b) A transfer statement entitles the transferee to the transfer of record of all rights of the debtor in the collateral specified in the statement in any official filing, recording, registration, or certificate-of-title system covering the collateral. If a transfer statement is presented with the applicable fee and request form to the official or office responsible for maintaining the system, the official or office shall:

(1) accept the transfer statement;

(2) promptly amend its records to reflect the transfer; and

(3) if applicable, issue a new appropriate certificate of title in the name of transferee.

(c) A transfer of the record or legal title to collateral to a

secured party under subsection (b) or otherwise is not of itself a disposition of collateral under IC 26-1-9.1 and does not of itself relieve the secured party of its duties under IC 26-1-9.1.

Sec. 620. (a) Except as otherwise provided in subsection (g), a secured party may accept collateral in full or partial satisfaction of the obligation it secures only if:

- (1) the debtor consents to the acceptance under subsection (c);
- (2) the secured party does not receive, within the time set forth in subsection (d), a notification of objection to the proposal authenticated by:
 - (A) a person to which the secured party was required to send a proposal under IC 26-1-9.1-621; or
 - (B) any other person, other than the debtor, holding an interest in the collateral subordinate to the security interest that is the subject of the proposal;
- (3) if the collateral is consumer goods, the collateral is not in the possession of the debtor when the debtor consents to the acceptance; and
- (4) subsection (e) does not require the secured party to dispose of the collateral or the debtor waives the requirement pursuant to IC 26-1-9.1-624.

(b) A purported or apparent acceptance of collateral under this section is ineffective unless:

- (1) the secured party consents to the acceptance in an authenticated record or sends a proposal to the debtor; and
- (2) the conditions of subsection (a) are met.

(c) For purposes of this section:

- (1) a debtor consents to an acceptance of collateral in partial satisfaction of the obligation it secures only if the debtor agrees to the terms of the acceptance in a record authenticated after default; and
- (2) a debtor consents to an acceptance of collateral in full satisfaction of the obligation it secures only if the debtor agrees to the terms of the acceptance in a record authenticated after default or the secured party:
 - (A) sends to the debtor after default a proposal that is unconditional or subject only to a condition that collateral not in the possession of the secured party be preserved or maintained;

(B) in the proposal, proposes to accept collateral in full satisfaction of the obligation it secures; and

(C) does not receive a notification of objection authenticated by the debtor within twenty (20) days after the proposal is sent.

(d) To be effective under subsection (a)(2), a notification of objection must be received by the secured party:

(1) in the case of a person to which the proposal was sent pursuant to IC 26-1-9.1-621, within twenty (20) days after notification was sent to that person; and

(2) in other cases:

(A) within twenty (20) days after the last notification was sent pursuant to IC 26-1-9.1-621; or

(B) if a notification was not sent, before the debtor consents to the acceptance under subsection (c).

(e) A secured party that has taken possession of collateral shall dispose of the collateral pursuant to IC 26-1-9.1-610 within the time specified in subsection (f) if:

(1) sixty percent (60%) of the cash price has been paid in the case of a purchase-money security interest in consumer goods; or

(2) sixty percent (60%) of the principal amount of the obligation secured has been paid in the case of a non-purchase-money security interest in consumer goods.

(f) To comply with subsection (e), the secured party shall dispose of the collateral:

(1) within ninety (90) days after taking possession; or

(2) within any longer period to which the debtor and all secondary obligors have agreed in an agreement to that effect entered into and authenticated after default.

(g) In a consumer transaction, a secured party may not accept collateral in partial satisfaction of the obligation it secures.

Sec. 621. (a) A secured party that desires to accept collateral in full or partial satisfaction of the obligation it secures shall send its proposal to:

(1) any person from which the secured party has received, before the debtor consented to the acceptance, an authenticated notification of a claim of an interest in the collateral;

(2) any other secured party or lienholder that, ten (10) days before the debtor consented to the acceptance, held a security interest in or other lien on the collateral perfected by the filing of a financing statement that:

(A) identified the collateral;

(B) was indexed under the debtor's name as of that date; and

(C) was filed in the office or offices in which to file a financing statement against the debtor covering the collateral as of that date; and

(3) any other secured party that, ten (10) days before the debtor consented to the acceptance, held a security interest in the collateral perfected by compliance with a statute, regulation, or treaty described in IC 26-1-9.1-311(a).

(b) A secured party that desires to accept collateral in partial satisfaction of the obligation it secures shall send its proposal to any secondary obligor in addition to the persons described in subsection (a).

Sec. 622. (a) A secured party's acceptance of collateral in full or partial satisfaction of the obligation it secures:

(1) discharges the obligation to the extent consented to by the debtor;

(2) transfers to the secured party all of a debtor's rights in the collateral;

(3) discharges the security interest or agricultural lien that is the subject of the debtor's consent and any subordinate security interest or other subordinate lien; and

(4) terminates any other subordinate interest.

(b) A subordinate interest is discharged or terminated under subsection (a), even if the secured party fails to comply with IC 26-1-9.1.

Sec. 623. (a) A debtor, any secondary obligor, or any other secured party or lienholder may redeem collateral.

(b) To redeem collateral, a person shall tender:

(1) fulfillment of all obligations secured by the collateral; and

(2) the reasonable expenses and attorney's fees described in IC 26-1-9.1-615(a)(1).

(c) A redemption may occur at any time before a secured party:

(1) has collected collateral under IC 26-1-9.1-607;

(2) has disposed of collateral or entered into a contract for its disposition under IC 26-1-9.1-610; or

(3) has accepted collateral in full or partial satisfaction of the obligation it secures under IC 26-1-9.1-622.

Sec. 624. (a) A debtor or secondary obligor may waive the right to notification of disposition of collateral under IC 26-1-9.1-611 only by an agreement to that effect entered into and authenticated after default.

(b) A debtor may waive the right to require disposition of collateral under IC 26-1-9.1-620(e) only by an agreement to that effect entered into and authenticated after default.

(c) Except in a consumer-goods transaction, a debtor or secondary obligor may waive the right to redeem collateral under IC 26-1-9.1-623 only by an agreement to that effect entered into and authenticated after default.

Sec. 625. (a) If it is established that a secured party is not proceeding in accordance with IC 26-1-9.1, a court may order or restrain collection, enforcement, or disposition of collateral on appropriate terms and conditions.

(b) Subject to subsections (c), (d), and (f), a person is liable for damages in the amount of any loss caused by a failure to comply with IC 26-1-9.1. Loss caused by a failure to comply may include loss resulting from the debtor's inability to obtain, or increased costs of, alternative financing.

(c) Except as otherwise provided in IC 26-1-9.1-628:

(1) a person that, at the time of the failure, was a debtor, was an obligor, or held a security interest in or other lien on the collateral may recover damages under subsection (b) for its loss; and

(2) if the collateral is consumer goods, a person that was a debtor or a secondary obligor at the time a secured party failed to comply with IC 26-1-9.1-601 through IC 26-1-9.1-628 may recover for that failure in any event an amount not less than the credit service charge plus ten percent (10%) of the principal amount of the obligation or the time-price differential plus ten percent (10%) of the cash price.

(d) A debtor whose deficiency is eliminated under IC 26-1-9.1-626 may recover damages for the loss of any surplus. However, a debtor or secondary obligor whose deficiency is

eliminated or reduced under IC 26-1-9.1-626 may not otherwise recover under subsection (b) for noncompliance with the provisions of IC 26-1-9.1-601 through IC 26-1-9.1-628 relating to collection, enforcement, disposition, or acceptance.

(e) In addition to any damages recoverable under subsection (b), the debtor, consumer obligor, or person named as a debtor in a filed record, as applicable, may recover five hundred dollars (\$500) in each case from a person that:

- (1) fails to comply with IC 26-1-9.1-208;
- (2) fails to comply with IC 26-1-9.1-209;
- (3) files a record that the person is not entitled to file under IC 26-1-9.1-509(a);
- (4) fails to cause the secured party of record to file or send a termination statement as required by IC 26-1-9.1-513(a) or IC 26-1-9.1-513(c);
- (5) fails to comply with IC 26-1-9.1-616(b)(1) and whose failure is part of a pattern or consistent with a practice, of noncompliance; or
- (6) fails to comply with IC 26-1-9.1-616(b)(2).

(f) A debtor or consumer obligor may recover damages under subsection (b) and, in addition, five hundred dollars (\$500) in each case from a person that, without reasonable cause, fails to comply with a request under IC 26-1-9.1-210. A recipient of a request under IC 26-1-9.1-210 that never claimed an interest in the collateral or obligations that are the subject of a request under that section has a reasonable excuse for failure to comply with the request within the meaning of this subsection.

(g) If a secured party fails to comply with a request regarding a list of collateral or a statement of account under IC 26-1-9.1-210, the secured party may claim a security interest only as shown in the list or statement included in the request as against a person that is reasonably misled by the failure.

Sec. 626. In an action arising from a transaction in which the amount of a deficiency or surplus is in issue, the following rules apply:

- (1) A secured party need not prove compliance with the provisions of IC 26-1-9.1-601 through IC 26-1-9.1-628 relating to collection, enforcement, disposition, or acceptance unless the debtor or a secondary obligor places the secured party's

compliance in issue.

(2) If the secured party's compliance is placed in issue, the secured party has the burden of establishing that the collection, enforcement, disposition, or acceptance was conducted in accordance with this part.

(3) Except as otherwise provided in IC 26-1-9.1-628, if a secured party fails to prove that the collection, enforcement, disposition, or acceptance was conducted in accordance with the provisions of IC 26-1-9.1-601 through IC 26-1-9.1-628 relating to collection, enforcement, disposition, or acceptance, the liability of a debtor or a secondary obligor for a deficiency is limited to an amount by which the sum of the secured obligation, expenses, and attorney's fees exceeds the greater of:

(A) the proceeds of the collection, enforcement, disposition, or acceptance; or

(B) the amount of proceeds that would have been realized had the noncomplying secured party proceeded in accordance with the provisions of IC 26-1-9.1-601 through IC 26-1-9.1-628 relating to collection, enforcement, disposition, or acceptance.

(4) For purposes of subdivision (3)(B), the amount of proceeds that would have been realized is equal to the sum of the secured obligation, expenses, and attorney's fees unless the secured party proves that the amount is less than that sum.

(5) If a deficiency or surplus is calculated under IC 26-1-9.1-615(f), the debtor or obligor has the burden of establishing that the amount of proceeds of the disposition is significantly below the range of prices that a complying disposition to a person other than the secured party, a person related to the secured party, or a secondary obligor would have brought.

Sec. 627. (a) The fact that a greater amount could have been obtained by a collection, enforcement, disposition, or acceptance at a different time or in a different method from that selected by the secured party is not of itself sufficient to preclude the secured party from establishing that the collection, enforcement, disposition, or acceptance was made in a commercially reasonable manner.

(b) A disposition of collateral is made in a commercially

reasonable manner if the disposition is made:

- (1) in the usual manner on any recognized market;
- (2) at the price current in any recognized market at the time of the disposition; or
- (3) otherwise in conformity with reasonable commercial practices among dealers in the type of property that was the subject of the disposition.

(c) A collection, enforcement, disposition, or acceptance is commercially reasonable if it has been approved:

- (1) in a judicial proceeding;
- (2) by a bona fide creditors' committee;
- (3) by a representative of creditors; or
- (4) by an assignee for the benefit of creditors.

(d) Approval under subsection (c) need not be obtained, and lack of approval does not mean that the collection, enforcement, disposition, or acceptance is not commercially reasonable.

Sec. 628. (a) Unless a secured party knows that a person is a debtor or obligor, knows the identity of the person, and knows how to communicate with the person:

- (1) the secured party is not liable to the person, or to a secured party or lienholder that has filed a financing statement against the person, for failure to comply with IC 26-1-9.1; and
- (2) the secured party's failure to comply with IC 26-1-9.1 does not affect the liability of the person for a deficiency.

(b) A secured party is not liable because of its status as secured party:

- (1) to a person that is a debtor or obligor, unless the secured party knows:
 - (A) that the person is a debtor or obligor;
 - (B) the identity of the person; and
 - (C) how to communicate with the person; or
- (2) to a secured party or lienholder that has filed a financing statement against a person, unless the secured party knows:
 - (A) that the person is a debtor; and
 - (B) the identity of the person.

(c) A secured party is not liable to any person, and a person's liability for a deficiency is not affected, because of any act or omission arising out of the secured party's reasonable belief that a

transaction is not a consumer-goods transaction or a consumer transaction or that goods are not consumer goods, if the secured party's belief is based on its reasonable reliance on:

- (1) a debtor's representation concerning the purpose for which collateral was to be used, acquired, or held; or
- (2) an obligor's representation concerning the purpose for which a secured obligation was incurred.

(d) A secured party is not liable to any person under IC 26-1-9.1-625(c)(2) for its failure to comply with IC 26-1-9.1-616.

(e) A secured party is not liable under IC 26-1-9.1-625(c)(2) more than once with respect to any one secured obligation.

Sec. 701. IC 26-1-9.1 takes effect on July 1, 2001.

Sec. 702. (a) Except as otherwise provided in this section through section 709 of this chapter, IC 26-1-9.1 applies to a transaction or lien within its scope, even if the transaction or lien was entered into or created before IC 26-1-9.1 takes effect.

(b) Except as otherwise provided in subsection (c) and IC 26-1-9.1-703 through IC 26-1-9.1-709:

- (1) transactions and liens that were not governed by IC 26-1-9, before its repeal, were validly entered into or created before IC 26-1-9.1 takes effect, and would be subject to IC 26-1-9.1 if they had been entered into or created after IC 26-1-9.1 takes effect, and the rights, duties, and interests flowing from those transactions and liens remain valid after IC 26-1-9.1 takes effect; and
- (2) the transactions and liens may be terminated, completed, consummated, and enforced as required or permitted by IC 26-1-9.1 or by the law that otherwise would apply if IC 26-1-9.1 had not taken effect.

(c) IC 26-1-9.1 does not affect an action, case, or proceeding commenced before IC 26-1-9.1 takes effect.

Sec. 703. (a) A security interest that is enforceable immediately before IC 26-1-9.1 takes effect and would have priority over the rights of a person that becomes a lien creditor at that time is a perfected security interest under IC 26-1-9.1 if, when IC 26-1-9.1 takes effect, the applicable requirements for enforceability and perfection under IC 26-1-9.1 are satisfied without further action.

(b) Except as otherwise provided in IC 26-1-9.1-705, if, immediately before IC 26-1-9.1 takes effect, a security interest is

enforceable and would have priority over the rights of a person that becomes a lien creditor at that time, but the applicable requirements for enforceability or perfection under IC 26-1-9.1 are not satisfied when IC 26-1-9.1 takes effect, the security interest:

- (1) is a perfected security interest for one (1) year after IC 26-1-9.1 takes effect;
- (2) remains enforceable thereafter only if the security interest becomes enforceable under IC 26-1-9.1-203 before the year expires; and
- (3) remains perfected thereafter only if the applicable requirements for perfection under IC 26-1-9.1 are satisfied before the year expires.

Sec. 704. A security interest that is enforceable immediately before IC 26-1-9.1 takes effect but which would be subordinate to the rights of a person that becomes a lien creditor at that time:

- (1) remains an enforceable security interest for one (1) year after IC 26-1-9.1 takes effect;
- (2) remains enforceable thereafter if the security interest becomes enforceable under IC 26-1-9.1-203 when IC 26-1-9.1 takes effect or within one (1) year thereafter; and
- (3) becomes perfected:
 - (A) without further action, when IC 26-1-9.1 takes effect if the applicable requirements for perfection under IC 26-1-9.1 are satisfied before or at that time; or
 - (B) when the applicable requirements for perfection are satisfied if the requirements are satisfied after that time.

Sec. 705. (a) If action, other than the filing of a financing statement, is taken before IC 26-1-9.1 takes effect and the action would have resulted in priority of a security interest over the rights of a person that becomes a lien creditor had the security interest become enforceable before IC 26-1-9.1 takes effect, the action is effective to perfect a security interest that attaches under IC 26-1-9.1 within one (1) year after IC 26-1-9.1 takes effect. An attached security interest becomes unperfected one (1) year after IC 26-1-9.1 takes effect unless the security interest becomes a perfected security interest under IC 26-1-9.1 before the expiration of that period.

(b) The filing of a financing statement before IC 26-1-9.1 takes effect is effective to perfect a security interest to the extent the

filing would satisfy the applicable requirements for perfection under IC 26-1-9.1.

(c) IC 26-1-9.1 does not render ineffective an effective financing statement that is filed before IC 26-1-9.1 takes effect and satisfied the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in IC 26-1-9-103, before its repeal. However, except as otherwise provided in subsections (d) and (e) and IC 26-1-9.1-706, the financing statement ceases to be effective at the earlier of:

- (1) the time the financing statement would have ceased to be effective under the law of the jurisdiction in which it is filed;
- or
- (2) June 30, 2006.

(d) The filing of a continuation statement after IC 26-1-9.1 takes effect does not continue the effectiveness of the financing statement filed before IC 26-1-9.1 takes effect. However, upon the timely filing of a continuation statement after IC 26-1-9.1 takes effect and in accordance with the law of the jurisdiction governing perfection as provided in subsection (c), the effectiveness of a financing statement filed in the same office in that jurisdiction before IC 26-1-9.1 takes effect continues for the period provided by the law of that jurisdiction.

(e) Subsection (c)(2) applies to a financing statement that is filed against a transmitting utility before IC 26-1-9.1 takes effect and satisfied the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in IC 26-1-9-103, before its repeal, only to the extent that subsection (c) provides that the law of a jurisdiction other than jurisdiction in which the financing statement is filed governs perfection of a security interest in collateral covered by the financing statement.

(f) A financing statement that includes a financing statement filed before IC 26-1-9.1 takes effect and a continuation statement filed after IC 26-1-9.1 takes effect is effective only to the extent that it satisfies the requirements of subsection (e) for an initial financing statement.

Sec. 706. (a) The filing of an initial financing statement in the office specified in IC 26-1-9.1-501 continues the effectiveness of a financing statement filed before IC 26-1-9.1 takes effect if:

- (1) the filing of an initial financing statement in that office

would be effective to perfect a security interest under IC 26-1-9.1;

(2) the pre-effective-date financing statement was filed in an office in another state or another office in this state; and

(3) the initial financing statement satisfies subsection (c).

(b) The filing of an initial financing statement under subsection (a) continues the effectiveness of the pre-effective date financing statement if the initial financing statement is filed:

(1) before IC 26-1-9.1 takes effect, for the period provided in IC 26-1-9-403 (before its repeal) for a financing statement; and

(2) after IC 26-1-9.1 takes effect, for the period provided in IC 26-1-9-515 for an initial financing statement.

(c) To be effective for purposes of subsection (a), an initial financing statement must:

(1) satisfy the requirements of IC 26-1-9.1-501 through IC 26-1-9.1-526 for an initial financing statement;

(2) identify the pre-effective-date financing statement by indicating the office in which the financing statement was filed and providing the dates of filing and file numbers, if any, of the financing statement and of the most recent continuation statement filed with respect to the financing statement; and

(3) indicate that the pre-effective-date financing statement remains effective.

Sec. 707. (a) In this section, "pre-effective-date financing statement" means a financing statement filed before IC 26-1-9.1 takes effect.

(b) After IC 26-1-9.1 takes effect, a person may add or delete collateral covered by, continue, or terminate the effectiveness of, or otherwise amend the information provided in, a pre-effective-date financing statement only in accordance with the law of the jurisdiction governing perfection as provided under IC 26-1-9.1-301 through IC 26-1-9.1-342. However, the effectiveness of a pre-effective-date financing statement also may be terminated in accordance with the law of the jurisdiction in which the financing statement is filed.

(c) Except as otherwise provided in subsection (d), if Indiana law governs perfection of a security interest, the information in a pre-effective-date financing statement may be amended after

IC 26-1-9.1 takes effect only if:

- (1) the pre-effective date financing statement and an amendment are filed in the office specified in IC 26-1-9.1-501;**
- (2) an amendment is filed in the office specified in IC 26-1-9.1-501 concurrently with, or after the filing in that office of, an initial financing statement that satisfies IC 26-1-9.1-706(c); or**
- (3) an initial financing statement that provides the information as amended and satisfies IC 26-1-9.1-706(c) is filed in the office specified in IC 26-1-9.1-501.**

(d) If Indiana law governs the perfection of a security interest, the effectiveness of a pre-effective-date financing statement may be continued only under IC 26-1-9.1-705(d) and IC 26-1-9.1-705(f) or IC 26-1-9.1-706.

(e) Whether or not Indiana law governs perfection of a security interest, the effectiveness of a pre-effective-date financing statement filed in Indiana may be terminated after IC 26-1-9.1 takes effect by filing a termination statement in the office in which the pre-effective-date financing statement is filed, unless an initial financing statement that satisfies IC 26-1-9.1-706(c) has been filed in the office specified by the law of the jurisdiction governing perfection in IC 26-1-9.1-301 through IC 26-1-9.1-342 as the office in which to file a financing statement.

Sec. 708. A person may file an initial financing statement or a continuation statement under IC 26-1-9.1-701 through IC 26-1-9.1-709 if:

- (1) the secured party of record authorizes the filing; and**
- (2) the filing is necessary under IC 26-1-9.1-701 through IC 26-1-9.1-709:**
 - (A) to continue the effectiveness of a financing statement filed before IC 26-1-9.1 takes effect; or**
 - (B) to perfect or continue the perfection of a security interest.**

Sec. 709. (a) IC 26-1-9, before its repeal, determines the priority of conflicting claims to collateral if the relative priorities of the claims were established before IC 26-1-9.1 takes effect. In other cases, IC 26-1-9.1 determines priority.

(b) For purposes of IC 26-1-9.1-322(a), the priority of a security interest that becomes enforceable under IC 26-1-9.1-203 dates

from the time IC 26-1-9.1 takes effect if the security interest is perfected under IC 26-1-9.1 by the filing of a financing statement before IC 26-1-9.1 takes effect which would not have been effective to perfect the security interest under IC 26-1-9, before its repeal. This subsection does not apply to conflicting security interests each of which is perfected by the filing of such a financing statement.

SECTION 46. IC 32-1-2-16.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 16.3. (a) This section applies to an instrument regardless of when the instrument was recorded, except that this section does not divest rights that vested before May 1, 1993.

(b) An assignment, a mortgage, or a pledge of rents and profits arising from real estate that is intended as security, whether contained in a separate instrument or otherwise, shall be recorded under section 16 of this chapter.

(c) When an assignment, a mortgage, or a pledge of rents and profits is recorded under subsection (b), the security interest of the assignee, mortgagee, or pledgee is immediately perfected as to the assignor, mortgagor, pledgor, and any third parties:

(1) regardless of whether the assignment, mortgage, or pledge is operative:

(A) immediately;

(B) upon the occurrence of a default; or

(C) under any other circumstances; and

(2) without the holder of the security interest taking any further action.

(d) This section does not apply to security interests in:

(1) farm products;

(2) accounts or general intangibles arising from or relating to the sale of farm products by a farmer;

(3) timber to be cut; **or**

(4) minerals or the like (including oil and gas); **or**

~~(5) accounts subject to IC 26-1-9-103(5);~~

that may be perfected under ~~IC 26-1-9~~: **IC 26-1-9.1.**

SECTION 47. IC 32-8-24-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. (a) Any employee wishing to acquire such lien upon the corporate property of any corporation, or the earnings thereof, whether the employee's claim be

due or not, shall file in the recorder's office of the county where such corporation is located or doing business, notice of the employee's intention to hold a lien upon such property and earnings aforesaid, for the amount of the employee's claim, setting forth the date of such employment, the name of the corporation and the amount of such claim, and it shall be the duty of the recorder of any county, when such notice is presented for record, to record the same in the record required by law for notice of mechanics' liens, for which the recorder shall charge a fee in an amount specified in IC 36-2-7-10(b)(1) and IC 36-2-7-10(b)(2). The lien so created shall relate to the time when such employee was employed by such corporation, or to any subsequent date during such employment, at the election of such employee, and shall have priority over all liens suffered or created thereafter, except other employees' liens, over which there shall be no such priority.

(b) Where:

- (1) any person, other than an employee, shall acquire a lien upon the corporate property of any corporation located or doing business in this state;
- (2) such lien for a period of sixty (60) days either:
 - (A) remains a matter of record in the proper place specified in ~~IC 26-1-9-401~~; **IC 26-1-9.1-501**; or
 - (B) remains otherwise perfected under applicable law; and
- (3) no notice of an employee's intention to hold a lien shall have been filed by any employee of such corporation during that period;

then and in that case such lien so created shall have priority over the lien of such employee in the county where such corporation is located or doing business, and not otherwise.

(c) This section shall not apply to any lien acquired by any person for purchase money.

SECTION 48. IC 26-1-9 IS REPEALED [EFFECTIVE JULY 1, 2001].

P.L.58-2000

[H.1329. Approved March 15, 2000.]

AN ACT to amend the Indiana Code concerning health.

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

SECTION 1. IC 16-18-2-167 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 167. (a) "Health facility" means a building, a structure, an institution, or other place for the reception, accommodation, board, care, or treatment extending beyond a continuous twenty-four (24) hour period in a week of more than four (4) individuals who need or desire such services because of physical or mental illness, infirmity, or impairment.

(b) The term does not include the premises used for the reception, accommodation, board, care, or treatment in a household or family, for compensation, of a person related by blood to the head of the household or family (or to the spouse of the head of the household or family) within the degree of consanguinity of first cousins.

(c) The term does not include any of the following:

- (1) Hotels, motels, or mobile homes when used as such.
- (2) Hospitals or mental hospitals, except for that part of a hospital that provides long term care services and functions as a health facility, in which case that part of the hospital is licensed under IC 16-21-2, but in all other respects is subject to IC 16-28.
- (3) **Hospices that furnish inpatient care and are licensed under IC 16-25-3.**
- (4) Institutions operated by the federal government.
- ~~(4)~~ (5) Foster family homes or day care centers.
- ~~(5)~~ (6) Schools for the deaf or blind.
- ~~(6)~~ (7) Day schools for the retarded.
- ~~(7)~~ (8) Day care centers.
- ~~(8)~~ (9) Children's homes and child placement agencies.
- ~~(9)~~ (10) Offices of practitioners of the healing arts.
- ~~(10)~~ (11) Any institution in which health care services and private duty nursing services are provided that is listed and certified by

the Commission for Accreditation of Christian Science Nursing Organizations/Facilities, Inc.

~~(11)~~ **(12)** Industrial clinics providing only emergency medical services or first aid for employees.

~~(12)~~ **(13)** A residential facility (as defined in IC 12-7-2-165).

~~(13)~~ **(14)** Maternity homes.

~~(14)~~ **(15)** Offices of Christian Science practitioners.

SECTION 2. IC 16-25-1.1-3, AS ADDED BY P.L.256-1999, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. "Hospice" means a person that owns or operates a hospice program **in Indiana**.

SECTION 3. IC 16-25-1.1-4, AS ADDED BY P.L.256-1999, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) "Hospice program" means a specialized form of interdisciplinary health care **provided in Indiana that is** designed to alleviate the physical, emotional, social, and spiritual discomforts of an individual who is experiencing the last phase of a terminal illness or disease and that:

(1) uses an interdisciplinary team that is under the direction of a physician licensed under IC 25-22.5 to provide a program of planned and continual care for terminally ill patients and their families, including:

(A) participation in the establishment of the plan of care;

(B) provision or supervision of hospice services;

(C) periodic review and updating of the plan of care for each hospice program patient; and

(D) establishment of policies governing the day to day provision of hospice services;

(2) must provide a continuum of care, including twenty-four (24) hour availability of:

(A) nursing services, physician services, drugs, and biologicals;

(B) other services necessary for care that is reasonable and necessary for palliation and management of terminal illnesses and related conditions; and

(C) bereavement counseling;

in a manner consistent with accepted standards of practice; and

(3) meets the minimum standards for certification under the

Medicare program (42 U.S.C. 1395 et seq.) and complies with the regulations for hospices under 42 CFR 418.1 et seq.

(b) The term includes inpatient services provided by a hospice in compliance with 42 CFR 418.1 et seq.

(c) The term does not include services provided by a hospital, a health facility, an ambulatory outpatient surgical center, or a home health agency unless the entity has a distinct hospice program.

SECTION 4. IC 16-25-1.1-8, AS ADDED BY P.L.256-1999, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. "Person" means an individual, a corporation, a limited liability company, a partnership, or other legal entity **that does business in Indiana.**

SECTION 5. IC 16-25-3-1, AS ADDED BY P.L.256-1999, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) For purposes of this chapter, a:

- (1) hospital licensed under IC 16-21-2;
- (2) health facility licensed under IC 16-28-2; or
- (3) home health agency licensed under IC 16-27-1;

that operates a hospice program **in Indiana** must be approved by the state department under this chapter but is not required to have a hospice license.

(b) A person not described in subsection (a) who provides hospice services **in Indiana** must be licensed by the state department under this chapter.

SECTION 6. **An emergency is declared for this act.**

P.L.59-2000

[H.1376. Approved March 15, 2000.]

AN ACT to amend the Indiana Code concerning probate.

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

SECTION 1. IC 29-1-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1. (a) Forty-five (45) days after the

death of a decedent and upon being presented an affidavit that complies with subsection (b), a person:

- (1) indebted to the decedent; or
- (2) having possession of personal property, or an instrument evidencing a debt, an obligation, a stock, or a chose in action belonging to the decedent;

shall make payment of the indebtedness or deliver the personal property or an instrument evidencing a debt, an obligation, a stock, or a chose in action to a person claiming to be entitled to payment or delivery of property of the decedent.

(b) The affidavit required by subsection (a) must be an affidavit made by or on behalf of the claimant stating that:

- (1) the value of the gross probate estate, wherever located (less liens and encumbrances), does not exceed twenty-five thousand dollars (\$25,000);
- (2) forty-five (45) days have elapsed since the death of the decedent;
- (3) no application or petition for the appointment of a personal representative is pending or has been granted in any jurisdiction; and
- (4) the claimant is entitled to payment or delivery of the property.

(c) If a motor vehicle or watercraft (as defined in IC 9-13-2-198.5) is part of the estate, nothing in this section shall prohibit a transfer of the certificate of title to the motor vehicle if five (5) days have elapsed since the death of the decedent and no appointment of a personal representative is contemplated. A transfer under this subsection shall be made by the bureau of motor vehicles upon receipt of an affidavit containing a statement of the conditions required by subsection (b)(1) and (b)(4). The affidavit must be duly executed by the distributees of the estate.

(d) A transfer agent of a security shall change the registered ownership on the books of a corporation from the decedent to a claimant upon the presentation of an affidavit as provided in subsection (a).

(e) For the purposes of subsection (a), an insurance company that, by reason of the death of the decedent, becomes obligated to pay a death benefit to the estate of the decedent is considered a person indebted to the decedent.

(f) For purposes of subsection (a), property in a safe deposit box rented by a decedent from a financial institution organized or reorganized under the law of any state (as defined in IC 28-2-17-19) or the United States is considered personal property belonging to the decedent in the possession of the financial institution.

P.L.60-2000

[H.1387. Approved March 15, 2000.]

AN ACT to amend the Indiana Code concerning professions and occupations.

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

SECTION 1. IC 25-34.5-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. "Applicant" means a person who applies for ~~certification~~ **licensure** as a respiratory care practitioner under this article. The term does not include a practitioner who applies for renewal of the practitioner's ~~certificate~~ **license**.

SECTION 2. IC 25-34.5-1-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 2.5. (a) "Assessment" means the evaluation and interpretation of patient data that is the basis for and a prerequisite for making a decision concerning patient care.**

(b) The term does not include making a medical diagnosis.

SECTION 3. IC 25-34.5-1-4.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 4.7. "Other authorized health care professional" means a licensed health care professional whose scope of practice:**

- (1) includes the respiratory care practice being supervised;**
- and**
- (2) authorizes the professional to supervise an individual who is not licensed, certified, or registered as a health care**

professional.

SECTION 4. IC 25-34.5-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 6. "Practice of respiratory care" means the allied health specialty designed to aid the supervising physician or osteopath in the treatment, management, diagnostic testing, control, and care of patients with deficiencies and abnormalities associated with the cardiopulmonary system. The term ~~is limited to~~ **includes** the following:

- (1) Administration of pharmacological, diagnostic, and therapeutic aids related to the implementation of a treatment, disease prevention, pulmonary rehabilitation, or diagnostic regimen prescribed by and under the direct supervision of a physician licensed under IC 25-22.5 as follows:
 - (A) Administration of medical gases (except for the purpose of anesthesia), aerosols, and humidification.
 - (B) Environmental control mechanisms and hyperbaric therapy.
 - (C) Mechanical or physiological ventilatory support.
 - (D) Bronchopulmonary hygiene.
 - (E) Cardiopulmonary resuscitation.
 - (F) Maintenance of the natural airway.
 - (G) Insertion and maintenance of artificial airways.
 - (H) Specific diagnostic and testing techniques employed in the medical management of patients to assist in diagnosis, monitoring, treatment, and research of pulmonary abnormalities, including measurements of ventilatory volumes, pressures, and flows, collection of specimens of blood and blood gases, expired and inspired gas samples, respiratory secretions, and pulmonary function testing.
 - (I) Utilization of hemodynamic and other related physiologic measurements to assess the status of the cardiopulmonary system.
- (2) Transcription and implementation of the written or verbal orders of a physician.
- (3) Observing and monitoring signs and symptoms, general behavior, general physical response to respiratory care treatment and diagnostic testing, including determination of whether the signs, symptoms, reactions, behavior, or general response exhibit

abnormal characteristics.

(4) Observing and referring based on abnormalities, protocols, or changes in treatment.

(5) Repairing equipment used in the practice of respiratory care.

SECTION 5. IC 25-34.5-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 7. "Practitioner" means a person ~~certified~~ **licensed** under this article to engage in the practice of respiratory care.

SECTION 6. IC 25-34.5-1-8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 8. "Proximate supervision" means a situation in which an individual is:**

(1) responsible for directing the actions of another individual; and

(2) in the facility and is physically close enough to be readily available if needed by the supervised individual.

SECTION 7. IC 25-34.5-1-9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 9. "Task" means a respiratory care practice that does not:**

(1) require specialized knowledge that results from a course of education or training in respiratory care;

(2) pose an unreasonable risk of a negative outcome for the patient; and

(3) involve assessment or making a decision concerning patient care.

SECTION 8. IC 25-34.5-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 6. The committee shall:

(1) pass upon the qualifications of persons who apply for ~~certification~~ **licensure** as respiratory care practitioners;

(2) provide all examinations;

(3) ~~certify~~ **license** qualified applicants; and

(4) propose rules concerning the competent practice of respiratory care to the board.

SECTION 9. IC 25-34.5-2-6.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 6.1. The rules proposed under section 6(4) of this chapter and adopted under section 7(l) of this**

chapter must include, to the extent reasonably ascertainable, a designation of all tasks. The designation of tasks must:

- (1) exclude the practices described in section 6.2 of this chapter; and
- (2) include the tasks described in section 6.3 of this chapter.

SECTION 10. IC 25-34.5-2-6.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 6.2. The following respiratory care practices are not tasks:**

- (1) Administration of aerosol medication.
- (2) Insertion and maintenance of an artificial airway.
- (3) Mechanical ventilatory support.
- (4) Patient assessment.
- (5) Patient education.

SECTION 11. IC 25-34.5-2-6.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 6.3. The following respiratory care practices are tasks:**

- (1) Cleaning, disinfecting, sterilizing, and assembling equipment used in the practice of respiratory care as delegated by a practitioner or other authorized health care professional.
- (2) Collecting and reviewing patient data through noninvasive means if the collection and review does not include the individual's interpretation of the clinical significance of the data. Collecting and reviewing patient data includes the following:
 - (A) Setting up and obtaining an electrocardiogram.
 - (B) Performing pulse oximetry and reporting to a practitioner or other authorized health care professional in a timely manner.
- (3) Setting up a nasal cannula for oxygen therapy and reporting to a practitioner or other authorized health care professional in a timely manner.
- (4) Performing incentive spirometry, excluding a patient's initial treatment and education.
- (5) Performing cough and deep breath maneuvers.
- (6) Maintaining a patient's natural airway by physically manipulating the jaw and neck.

SECTION 12. IC 25-34.5-2-6.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 6.4. (a) An individual who is not a licensed, registered, or certified health care professional may perform a task only:**

- (1) under the proximate supervision of a practitioner or other authorized health care professional; and**
- (2) if the individual has demonstrated to the facility that employs or contracts with the individual competency to perform the task.**

The facility shall document competency in accordance with licensure, certification, and accreditation standards applicable to the facility.

(b) A practitioner may do the following:

- (1) Delegate tasks.**
- (2) Supervise the performance of tasks.**

SECTION 13. IC 25-34.5-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 7.** The board shall adopt rules under IC 4-22-2 establishing:

- (1) standards for the competent practice of respiratory care under the direct supervision of a physician licensed under IC 25-22.5, including a designation of tasks;**
- (2) fees for the administration of this article; and**
- (3) standards for the administration of this article;**

after considering rules proposed by the committee.

SECTION 14. IC 25-34.5-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 8. (a)** Each applicant for ~~certification~~ **licensure** as a respiratory care practitioner must present satisfactory evidence that the applicant:

- (1) does not have a conviction for:**
 - (A) an act that would constitute a ground for disciplinary sanction under IC 25-1-9; or**
 - (B) a crime that has a direct bearing on the practitioner's ability to practice competently;**
- (2) has not been the subject of a disciplinary action initiated by the licensing or certification agency of another state or jurisdiction on the grounds that the applicant was unable to practice as a respiratory care practitioner without endangering the**

public; and

(3) has passed a respiratory care practitioner licensing or certification examination approved by the board.

(b) Each applicant for ~~certification licensure~~ **licensure** as a respiratory care practitioner must submit proof to the committee of the applicant's:

(1) graduation from a school or program of respiratory care that meets standards set by the board;

(2) completion of a United States military training program in respiratory care; or

(3) completion of sufficient postsecondary education to be ~~certified~~ **credentialed** by a national respiratory care practitioner organization approved by the committee.

(c) At the time of making application, each applicant must pay a fee determined by the board after consideration of a recommendation of the committee.

SECTION 15. IC 25-34.5-2-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 9. (a) Except as provided in section 11 of this chapter, the committee shall issue a ~~certificate license~~ **license** to each applicant who:

(1) successfully passes the examination provided in section 12 of this chapter; and

(2) meets the requirements of section 8 of this chapter.

(b) A ~~certificate license~~ **license** issued under this section expires on the last day of the regular renewal cycle established under IC 25-1-5-4.

SECTION 16. IC 25-34.5-2-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 10. (a) The committee shall, under IC 25-1-2, renew every two (2) years the ~~certificate license~~ **license** of a practitioner who:

(1) meets the continuing education requirements established by rule by the board; and

(2) pays the fee set by the board.

(b) If a practitioner does not renew the practitioner's ~~certificate license~~ **license** before its expiration, the practitioner's ~~certificate license~~ **license** becomes invalid without action taken by the committee. A ~~certificate license~~ **license** that becomes invalid under this subsection may be reinstated by the committee up to three (3) years after its invalidation if the practitioner who holds an invalid ~~certificate license~~ **license** pays the following:

(1) A penalty set by the board.

(2) The renewal fee for the biennium.

(c) If a ~~certificate license~~ that becomes invalid under subsection (b) is not reinstated by the committee within three (3) years of its invalidation, the holder of the invalid ~~certificate license~~ may be required by the committee to take an examination for competence before the committee will reinstate the ~~certificate license~~.

(d) The board may adopt rules under IC 4-22-2 establishing requirements for reinstatement of an invalid ~~certificate license~~ after consideration of a recommendation of the committee.

(e) The board shall accept continuing education courses in the following areas toward fulfillment of the requirements of subsection (a):

(1) Management of the practice of respiratory care.

(2) Courses concerning the practice of respiratory care that enable individuals to teach continuing education courses for respiratory care practitioners.

(3) The practice of respiratory care.

SECTION 17. IC 25-34.5-2-10.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 10.1. (a) The committee may issue a temporary permit to a person to **practice respiratory care or to** profess to be a respiratory care practitioner if the person pays a fee and:

(1) has:

(A) a valid license or certificate to practice from another state; and

(B) applied for a ~~certificate license~~ from the committee;

(2) is practicing in a state that does not license or certify respiratory care practitioners but is ~~certified~~ **credentialed** by a national respiratory care practitioner association approved by the committee, and the person has applied for a ~~certificate license~~ from the committee; or

(3) has:

(A) been approved by the committee to take the next examination; and

(B) graduated from a school or program approved by the committee.

(b) A temporary permit expires the earlier of:

(1) the date the person holding the permit is issued a ~~certificate~~

license under this article; or

(2) the date the committee disapproves the person's ~~certificate~~ **license** application.

(c) The committee may renew a temporary permit if the person holding the permit was scheduled to take the next examination and:

(1) did not take the examination; and

(2) shows good cause for not taking the examination.

(d) A permit renewed under subsection (c) expires on the date the person holding the permit receives the results from the next examination given after the permit was issued.

SECTION 18. IC 25-34.5-2-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 11. (a) The committee may issue a ~~certificate~~ **license** by endorsement to a person who:

(1) presents satisfactory evidence to the committee that the person holds:

(A) a license or certification to practice respiratory care in:

(i) another state; or

(ii) a jurisdiction of Canada; or

(B) ~~a certification~~ **credentials issued** by a national respiratory care practitioner organization approved by the committee;

(2) meets the requirements of section 8 of this chapter; and

(3) pays a fee determined by the board after consideration of a recommendation of the committee.

(b) If the applicant presents satisfactory evidence that the applicant has actively engaged in the practice of respiratory care that included actual patient care:

(1) in another jurisdiction;

(2) under the supervision of a physician licensed in that jurisdiction; and

(3) for at least ten (10) of the previous fifteen (15) years preceding the date of application;

the committee may waive the education requirements under subsection (a)(2) and section 8(b) of this chapter if the committee determines that the applicant has sufficient knowledge and experience.

SECTION 19. IC 25-34.5-2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 12. (a) Examinations of applicants for ~~certification~~ **licensure** under this article shall be held at least semiannually on dates set by the board.

(b) An examination under this section must include a written examination that tests the following:

- (1) The applicant's knowledge of the basic and clinical sciences as they relate to the practice of respiratory care.
- (2) Other subjects that the committee considers useful to test an applicant's fitness to practice respiratory care.

(c) An otherwise qualified applicant who fails an examination and is refused ~~certification~~ **licensure** may take another scheduled examination upon payment of an additional fee set by the board under rules adopted under section 7 of this chapter.

SECTION 20. IC 25-34.5-2-14 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 14. (a) The committee may issue a student permit to an individual if the individual does the following:**

- (1) Submits the appropriate application to the committee.**
- (2) Pays the fee established by the board.**
- (3) Submits proof to the committee that the individual is a student in good standing in a respiratory care program approved by the committee.**

(b) An individual who holds a student permit may only perform respiratory care procedures that have been part of a course:

- (1) the individual has successfully completed in the respiratory care program designated under subsection (a)(3); and**
- (2) for which the successful completion has been documented and that is available upon request to the committee.**

(c) The procedures permitted by subsection (b) may be performed only:

- (1) on adult patients who are not critical care patients; and**
- (2) under the proximate supervision of a practitioner.**

(d) A student permit expires on the earliest of the following:

- (1) The date the permit holder is issued a license under this article.**
- (2) The date the committee disapproves the permit holder's application for a license under this article.**
- (3) The date the permit holder ceases to be a student in good standing in a respiratory care program approved by the**

committee. The graduation of a student permit holder from a respiratory care program approved by the committee does not cause the student permit to expire under this subdivision. (4) Two (2) years after the date of issuance.

SECTION 21. IC 25-34.5-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. A person may not:

- (1) **practice respiratory care;**
- (2) profess to be a respiratory care practitioner;
- (~~2~~) (3) use the title "respiratory care practitioner"; or
- (~~3~~) (4) use any initials, words, letters, abbreviations, or insignia indicating or implying that the person is a respiratory care practitioner ~~certified licensed~~ under this article;

unless the person is ~~certified licensed~~ under this article.

SECTION 22. IC 25-34.5-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. A person who violates this chapter commits a Class B misdemeanor. **In addition to any other penalty imposed for a violation of this chapter, the board may, in the name of the state of Indiana through the attorney general, petition a circuit or superior court to enjoin the person who is violating this chapter from practicing respiratory care in violation of this chapter.**

SECTION 23. IC 25-34.5-3-3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 3. This article does not prohibit a licensed, registered, or certified health care professional from practicing within the scope of the health care professional's license, registration, or certification.**

SECTION 24. IC 25-34.5-3-4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 4. Except as provided in IC 25-34.5-2-6.4(a), an individual who is not licensed, registered, or certified as a health care professional may perform a respiratory care practice only when the individual passes an examination covering the practice that is offered by a testing body approved by the committee.**

SECTION 25. IC 25-34.5-3-5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 5. An individual who is not**

licensed, registered, or certified as a health care professional may deliver, set up, calibrate, and demonstrate the mechanical operation of respiratory care equipment in a residential setting only when the following conditions are met:

- (1) The individual's employer documents that the individual has obtained adequate training and demonstrated competence under the supervision of a practitioner or other licensed, registered, or certified health care professional.
- (2) The individual does not teach, administer, or practice respiratory care.
- (3) The individual does not attach the respiratory care equipment to the patient or instruct the patient, the patient's family, or the patient's caregiver on the equipment's clinical use as a treatment device.
- (4) All instructions to the patient, family, or caregiver regarding the clinical use of the equipment, patient monitoring, patient assessment, or other procedures designed to evaluate the effectiveness of the treatment are performed by a practitioner or other licensed, registered, or certified health care professional.

SECTION 26. IC 25-34.5-3-6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 6. This article does not prohibit an individual who is not licensed as a respiratory care practitioner from doing any of the following:**

- (1) Performing cardiopulmonary resuscitation.
- (2) Repairing equipment used in the practice of respiratory care.

SECTION 27. IC 25-34.5-3-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 7. This article does not affect the applicability of IC 25-22.5-1-2(a)(19).**

SECTION 28. IC 25-34.5-3-8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 8. This article does not prohibit an individual who is not a practitioner from performing laboratory tests in a clinical laboratory holding a federal Clinical Laboratory Improvement Act (CLIA) certificate or a CLIA certificate of**

accreditation if the individual satisfies the specified federal qualification standards.

SECTION 29. IC 34-6-2-117 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 117. "Professional health care provider", for purposes of IC 34-30-15, means:

- (1) a physician licensed under IC 25-22.5;
- (2) a dentist licensed under IC 25-14;
- (3) a hospital licensed under IC 16-21;
- (4) a podiatrist licensed under IC 25-29;
- (5) a chiropractor licensed under IC 25-10;
- (6) an optometrist licensed under IC 25-24;
- (7) a psychologist licensed under IC 25-33;
- (8) a pharmacist licensed under IC 25-26;
- (9) a health facility licensed under IC 16-28-2;
- (10) a registered or licensed practical nurse licensed under IC 25-23;
- (11) a physical therapist licensed under IC 25-27;
- (12) a home health agency licensed under IC 16-27-1;
- (13) a community mental health center (as defined in IC 12-7-2-38);
- (14) a health care organization whose members, shareholders, or partners are:
 - (A) professional health care providers described in subdivisions (1) through (13);
 - (B) professional corporations comprised of health care professionals (as defined in IC 23-1.5-1-8); or
 - (C) professional health care providers described in subdivisions (1) through (13) and professional corporations comprised of persons described in subdivisions (1) through (13);
- (15) a private psychiatric hospital licensed under IC 12-25;
- (16) a preferred provider organization (including a preferred provider arrangement or reimbursement agreement under IC 27-8-11);
- (17) a health maintenance organization (as defined in IC 27-13-1-19) or a limited service health maintenance organization (as defined in IC 27-13-34-4);
- (18) a respiratory care practitioner ~~certified~~ **licensed** under

IC 25-34.5;

(19) an occupational therapist certified under IC 25-23.5;

(20) a state institution (as defined in IC 12-7-2-184);

(21) a clinical social worker who is licensed under IC 25-23.6-5-2;

(22) a managed care provider (as defined in IC 12-7-2-127(b)); or

(23) a nonprofit health care organization affiliated with a hospital that is owned or operated by a religious order, whose members are members of that religious order.

SECTION 30. [EFFECTIVE JULY 1, 2001] (a) Notwithstanding IC 25-34.5, as amended by this act, an individual who holds a valid respiratory care certificate on June 30, 2001, is considered to hold a valid respiratory care license under IC 25-34.5, as amended by this act, after June 30, 2001. The individual need not apply for a replacement license under IC 25-34.5, as amended by this act, until the certificate's expiration date, and the certificate shall be treated as a valid license under IC 25-34.5, as amended by this act, until the certificate's expiration date.

(b) A respiratory care practitioner's license described in subsection (a) expires on the date the respiratory care practitioner's license would have expired if the amendments to IC 25-34.5 by this act had not been enacted.

(c) This SECTION expires July 1, 2003.

SECTION 31. [EFFECTIVE JULY 1, 2000] (a) 844 IAC 11-5-3(c) is void. The publisher of the Indiana Administrative Code and the Indiana Register shall remove this rule from the Indiana Administrative Code.

(b) Notwithstanding IC 25-34.5-2-10, the medical licensing board shall accept continuing education courses in the following areas toward fulfillment of the requirements under IC 25-34.5-2-10(a):

(1) Management of the practice of respiratory care.

(2) Courses concerning the practice of respiratory care that enable individuals to teach continuing education courses for respiratory care practitioners.

(3) The practice of respiratory care.

(c) This SECTION expires July 1, 2001.

SECTION 32. [EFFECTIVE UPON PASSAGE] (a) Before July 1,

2001:

(1) the respiratory care committee shall propose rules under IC 4-22-2 to implement IC 25-34.5-2-6.1, as added by this act; and

(2) the medical licensing board shall adopt rules under IC 4-22-2 to implement IC 25-34.5-2-7(1), as amended by this act;

that designate, to the extent reasonably ascertainable, all respiratory care tasks (as defined in IC 25-34.5-1-9, as added by this act).

(b) In proposing rules under subsection (a)(1), the respiratory care committee shall receive and consider information provided by all affected health care providers, including joint consultation with the following:

(1) The Indiana Hospital and Health Association.

(2) The Indiana Society for Respiratory Care.

(c) In adopting rules under subsection (a)(2), the medical licensing board shall receive and consider information provided by all affected health care providers, including joint consultation with the following:

(1) The Indiana Hospital and Health Association.

(2) The Indiana Society for Respiratory Care.

(d) This SECTION expires July 1, 2001.

SECTION 33. An emergency is declared for this act.



P.L.61-2000

[H.1391. Approved March 15, 2000.]

AN ACT to amend the Indiana Code concerning utilities and transportation.

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

SECTION 1. IC 8-14-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 5. (a) All funds allocated to cities

and towns from the motor vehicle highway account shall be used by the cities and towns for the construction, reconstruction, repair, maintenance, oiling, sprinkling, snow removal, weed and tree cutting and cleaning of their highways as herein defined, and including also any curbs, and the city's or town's share of the cost of the separation of the grades of crossing of public highways and railroads, the purchase or lease of highway construction and maintenance equipment, the purchase, erection, operation and maintenance of traffic signs and signals, and safety zones and devices; and the painting of structures, objects, surfaces in highways for purposes of safety and traffic regulation. All of such funds shall be budgeted as provided by law.

(b) In addition to purposes for which funds may be expended under ~~subsection~~ **subsections (a) and (c)** of this section, monies allocated to cities and towns under this chapter may be expended for law enforcement purposes, subject to the following limitations:

(1) For cities and towns with a population of less than five thousand (5,000), no more than fifteen percent (15%) may be spent for law enforcement purposes.

(2) For cities and towns other than those specified in subdivision (1) of this subsection, no more than ten percent (10%) may be spent for law enforcement purposes.

(c) In addition to purposes for which funds may be expended under subsections (a) and (b) of this section, monies allocated to cities and towns under this chapter may be expended for the payment of principal and interest on bonds sold primarily to finance road, street, or thoroughfare projects.

ACTS 2000

Laws enacted by the

111th GENERAL ASSEMBLY

at the

SECOND REGULAR SESSION (2000)

VOLUME II

(P.L.62-2000 through Index)

By the authority of
INDIANA LEGISLATIVE COUNCIL
(IC 2-6-1.5)

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P.L.62-2000

[H.1395. Approved March 15, 2000.]

AN ACT to amend the Indiana Code concerning commercial law.

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

SECTION 1. IC 26-2-8 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]:

Chapter 8. Uniform Electronic Transactions Act

Sec. 101. IC 26-2-8 may be cited as the Uniform Electronic Transactions Act.

Sec. 102. As used in this chapter:

(1) "Agreement" means the bargain of the parties in fact, as found in their language or inferred from other circumstances and from rules, regulations, and procedures given the effect of agreements under laws otherwise applicable to a particular transaction.

(2) "Automated transaction" means a transaction conducted or performed, in whole or in part, by electronic means or electronic records in which the acts or records of one (1) or both parties are not reviewed by an individual in the ordinary course in forming a contract, performing under an existing contract, or fulfilling an obligation required by the transaction.

(3) "Computer program" means a set of statements or instructions to be used directly or indirectly in an information processing system in order to bring about a certain result.

(4) "Contract" means the total legal obligation resulting from the parties' agreement as affected by this chapter and other applicable law.

(5) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(6) "Electronic agent" means a computer program or an electronic or other automated means used to initiate an action or respond to electronic records or performances in whole or in part without review by an individual at the time of the

action or response.

(7) "Electronic record" means a record created, generated, sent, communicated, received, or stored by electronic means.

(8) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record.

(9) "Governmental agency" means an executive, legislative, or judicial agency, department, board, commission, authority, institution, instrumentality, or other political subdivision of the state.

(10) "Information" means data, text, images, sounds, codes, computer programs, software, databases, or the like.

(11) "Information processing system" means an electronic system for creating, generating, sending, receiving, storing, displaying, or processing information.

(12) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental agency, public corporation, or any other legal or commercial entity.

(13) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(14) "Security procedure" means a procedure employed for the purpose of verifying that an electronic signature, record, or performance is that of a specific person or for detecting changes or errors in the information in an electronic record. The term includes a procedure that requires the use of algorithms or other codes, identifying words or numbers, encryption, or callback or other acknowledgment procedures.

(15) "Transaction" means an action or set of actions relating to the conduct of business, commercial, or governmental affairs and occurring between two (2) or more persons.

Sec. 103. (a) Except as otherwise provided in subsection (b), this chapter applies to electronic records and electronic signatures that relate to a transaction.

(b) This chapter does not apply to transactions subject to the following laws:

(1) A law governing the creation and execution of wills, codicils, or testamentary trusts.

(2) IC 26-1-1, other than IC 26-1-1-107 and IC 26-1-1-206.

(3) IC 26-1-2, IC 26-1-2.1, IC 26-1-3.1, IC 26-1-4, IC 26-1-4.1, IC 26-1-5.1, IC 26-1-6.1, IC 26-1-7, IC 26-1-8.1, or IC 26-1-9.

(4) Laws specifically excluded by a governmental agency under sections 201 and 202 of this chapter.

(c) This chapter applies to an electronic record or electronic signature otherwise excluded from the application of this chapter under subsection (b) when used for transactions subject to a law other than those specified in subsection (b).

(d) A transaction subject to this chapter is also subject to other applicable substantive law.

Sec. 104. (a) This chapter does not require that a record or signature be created, generated, sent, communicated, received, stored, or otherwise processed or used by electronic means or in electronic form.

(b) This chapter only applies to transactions between parties each of which has agreed to conduct transactions electronically. An agreement to conduct transactions electronically is determined from the context and surrounding circumstances, including the parties' conduct.

(c) If a party agrees to conduct a transaction electronically, this chapter does not prohibit the party from refusing to conduct other transactions electronically. This subsection may not be varied by agreement.

(d) Except as otherwise provided in this chapter, the effect of any provision of this chapter may be varied by agreement. The presence in certain provisions of this chapter of the words "unless otherwise agreed", or words of similar import, does not imply that the effect of other provisions may not be varied by agreement.

(e) Whether an electronic record or electronic signature has legal consequences is determined by this chapter, if applicable, and otherwise by other applicable law.

Sec. 105. This chapter must be construed and applied:

(1) to facilitate electronic transactions consistent with other applicable law;

(2) to be consistent with reasonable practices concerning electronic transactions and with the continued expansion of those practices; and

(3) to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting it.

Sec. 106. (a) A record or signature may not be denied legal effect

or enforceability solely because it is in electronic form.

(b) A contract may not be denied legal effect or enforceability solely because an electronic record was used in its formation.

(c) If a law requires a record to be in writing, or provides consequences if it is not, an electronic record satisfies the law.

(d) If a law requires a signature, or provides consequences in the absence of a signature, the law is satisfied with respect to an electronic record if the electronic record includes an electronic signature.

Sec. 107. (a) If parties have agreed to conduct transactions electronically and a law requires a person to provide, send, or deliver information in writing to another person, that requirement is satisfied if the information is provided, sent, or delivered, as the case may be, in an electronic record and the information is capable of retention by the recipient at the time the information is received.

(b) If a law other than this chapter requires a record (i) to be posted or displayed in a certain manner, (ii) to be sent, communicated, or transmitted by a specified method, or (iii) to contain information that is formatted in a certain manner, the following rules apply:

(1) The record must be posted or displayed in the manner specified in the other law.

(2) Except as otherwise provided in subsection (d)(2), the record must be sent, communicated, or transmitted by the method specified in the other law.

(3) The record must contain the information formatted in the manner specified in the other law.

(c) An electronic record may not be sent, communicated, or transmitted by an information processing system that inhibits the ability to print or download the information in the electronic record.

(d) This section may not be varied by agreement, but:

(1) a requirement under a law other than this chapter to provide information in writing may be varied by agreement to the extent permitted by the other law; and

(2) a requirement under a law other than this chapter to send, communicate, or transmit a record by first class mail, may be varied by agreement to the extent permitted by the other law.

Sec. 108. (a) An electronic record or electronic signature is attributable to a person if it was the act of the person. The act of the person may be proved in any manner, including a showing of

the efficacy of any security procedure applied to determine the person to which the electronic record or electronic signature was attributable.

(b) The effect of an electronic record or electronic signature attributed to a person under subsection (a) is determined from the context and surrounding circumstances at the time of its creation, execution, or adoption, including the parties' agreement, if any, and otherwise as provided by law.

Sec. 109. If a change or error in an electronic record occurs in a transmission between parties to a transaction, the following rules apply:

(1) If the parties have agreed to use a security procedure to detect changes or errors and one (1) party has conformed to the procedure, but the other party has not, and the nonconforming party would have detected the change or error had that party also conformed, the effect of the changed or erroneous electronic record is avoidable by the conforming party.

(2) In an automated transaction involving an individual, the individual may avoid the effect of an electronic record that resulted from an error by the individual made in dealing with the electronic agent of another person if the electronic agent did not provide an opportunity for the prevention or correction of the error and, at the time the individual learns of the error, the individual:

(A) promptly notifies the other person of the error and that the individual did not intend to be bound by the electronic record received by the other person;

(B) takes reasonable steps, including steps that conform to the other person's reasonable instructions, to return to the other person or, if instructed by the other person, to destroy the consideration received, if any, as a result of the erroneous electronic record; and

(C) has not used or received any benefit or value from the consideration, if any, received from the other person.

(3) If neither subdivision (1) nor subdivision (2) applies, the change or error has the effect provided by law, including the law of mistake, and the parties' contract, if any.

(4) Subdivisions (2) and (3) may not be varied by agreement.

Sec. 110. If a law requires that a signature be notarized, the requirement is satisfied with respect to an electronic signature if an

electronic record includes, in addition to the electronic signature to be notarized, the electronic signature of a notary public together with all other information required to be included in a notarization by other applicable law.

Sec. 111. (a) If a law requires that certain records be retained, that requirement is met by retaining an electronic record of the information in the record that:

- (1) accurately reflects the information set forth in the record after it was first generated in its final form as an electronic record or otherwise; and
- (2) remains accessible for later reference.

(b) A requirement to retain records in accordance with subsection (a) does not apply to any information whose sole purpose is to enable the record to be sent, communicated, or received.

(c) A person satisfies subsection (a) by using the services of any other person if the requirements of subsection (a) are met.

(d) If a law requires a record to be presented or retained in its original form, or provides consequences if the record is not presented or retained in its original form, that law is satisfied by an electronic record retained in accordance with subsection (a).

(e) If a law requires retention of a check, that requirement is satisfied by retention of an electronic record of the information on the front and back of the check in accordance with subsection (a).

(f) A record retained as an electronic record in accordance with subsection (a) satisfies a law requiring a person to retain records for evidentiary, audit, or like purposes, unless a law enacted after July 1, 2000, specifically prohibits the use of an electronic record for a specified purpose.

(g) This section does not preclude a governmental agency from specifying additional requirements for the retention of records, written or electronic, subject to the agency's jurisdiction.

Sec. 112. In a legal proceeding, evidence of an electronic record or electronic signature may not be excluded because it is an electronic record or electronic signature or it is not an original or is not in its original form.

Sec. 113. (a) If an offer evokes an electronic record in response, a contract may be formed in the same manner and with the same effect as if the record were not electronic, but an acceptance of the offer is effective, if at all, when received.

(b) In an automated transaction, the following rules apply:

(1) A contract may be formed by the interaction of electronic agents of the parties even if no individual was aware of or reviewed the electronic agents' actions or the resulting terms and agreements.

(2) A contract may be formed by the interaction of an electronic agent and an individual, acting on the individual's own behalf or for another person, including by an interaction in which the individual performs actions that the individual is free to refuse to perform and which the individual knows or has reason to know will cause the electronic agent to complete the transaction or performance.

(c) The terms of a contract are determined by the substantive law applicable to the particular contract.

Sec. 114. (a) Unless otherwise agreed between the sender and the recipient, an electronic record is sent when the information is addressed or otherwise directed properly to the recipient and either:

(1) enters an information processing system outside the control of the sender or of a person that sent the electronic record on behalf of the sender; or

(2) enters a region of an information processing system that is under the control of the recipient.

(b) Unless otherwise agreed between the sender and the recipient, an electronic record is received when:

(1) it enters an information processing system that the recipient has designated or uses for the purpose of receiving electronic records or information of the type sent from which the recipient is able to retrieve the electronic record; and

(2) the electronic record is in a form capable of being processed by that system.

(c) Subsection (b) applies even if the place the information processing system is located is different from the place the electronic record is deemed to be received under subsection (d).

(d) Unless otherwise expressly provided in the electronic record or agreed between the sender and the recipient, an electronic record is deemed to be sent from the sender's place of business and is deemed to be received at the recipient's place of business. For purposes of this subsection, the following rules apply:

(1) If the sender or recipient has more than one (1) place of business, the place of business of that person is that which has the closest relationship to the underlying transaction.

(2) If the sender or the recipient does not have a place of business, the place of business is the sender's or recipient's residence, as the case may be.

(e) An electronic record is effective when received even if no individual is aware of its receipt.

(f) Receipt of an electronic acknowledgment from an information processing system described in subsection (b) establishes that a record was received but, in itself, does not establish that the content sent corresponds to the content received.

(g) If a law other than this chapter requires that a record be sent or received, the requirement is satisfied by an electronic record only if it is sent in accordance with subsection (a) or received in accordance with subsection (b). If a person is aware that an electronic record purportedly sent under subsection (a), or purportedly received under subsection (b), was not actually sent or received, the legal effect of the sending or receipt is determined by other applicable law. Except to the extent permitted by the other law, this subsection may not be varied by agreement.

Sec. 115. (a) In this section, "transferable record" means an electronic record that:

(1) would be a note under IC 26-1-3.1 or a document under IC 26-1-7, if the electronic record were in writing; and

(2) the issuer of the electronic record expressly has agreed is subject to this chapter.

(b) A person has control of a transferable record if a system employed for evidencing the transfer of interests in the transferable record reliably establishes that person as the person to whom the transferable record has been issued or transferred.

(c) A system satisfies subsection (a), and a person is deemed to have control of a transferable record, if the record or records are created, stored, and assigned in such a manner that:

(1) a single authoritative copy of the record or records exists that is unique, identifiable, and except as otherwise provided in subdivisions (4), (5), and (6), unalterable;

(2) the authoritative copy identifies the person asserting control as the assignee of the record or records;

(3) the authoritative copy is communicated to and maintained by the person asserting control or its designated custodian;

(4) copies or revisions that add or change an identified assignee of the authoritative copy can be made only with the consent of the person asserting control;

(5) each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and

(6) any revision of the authoritative copy is readily identifiable as an authorized or unauthorized revision.

(d) Except as otherwise agreed, a person having control of a transferable record is the holder, as defined in IC 26-1-1-201(20), of the transferable record and has the same rights and defenses as a holder of an equivalent record or writing under IC 26-1, including, if the applicable statutory requirements under IC 26-1-3.1-302(a), IC 26-1-7-501, or IC 26-1-9-308 are satisfied, the rights and defenses of a holder in due course, a holder to which a negotiable document of title has been duly negotiated, or a purchaser, respectively. Delivery, possession, and endorsement are not required to obtain or exercise any of the rights in this subsection.

(e) Except as otherwise agreed, obligors under a transferable record have the same rights and defenses as equivalent obligors under equivalent records and writings under IC 26-1.

(f) If requested by the person against whom enforcement is sought, the person seeking to enforce the transferable record shall provide reasonable proof that the person is in control of the transferable record. This proof may include access to the authoritative copy of the transferable record and related business records sufficient to review the terms of the transferable record and establish the identity of the person in control of the transferable record.

Sec. 201. Each governmental agency shall determine whether, and the extent to which, the governmental agency will create and retain electronic records and convert written records to electronic records.

Sec. 202. (a) Except as otherwise provided in section 111(f) of this chapter, each governmental agency shall determine whether, and the extent to which, it will send and accept electronic records and electronic signatures to and from other persons and otherwise create, generate, communicate, store, process, use, and rely upon electronic records and electronic signatures.

(b) To the extent that a governmental agency uses electronic records and electronic signatures under subsection (a), the governmental agency, giving due consideration to security, may specify:

- (1) the manner and format in which the electronic records must be created, generated, sent, communicated, received, and stored and the systems established for such purposes;
- (2) if electronic records must be electronically signed, the type of electronic signature required, the manner and format in which the electronic signature must be affixed to the electronic record, and the identity of, or criteria that must be met by, any third party used by a person filing a document to facilitate the process;
- (3) control processes and procedures as appropriate to ensure adequate preservation, disposition, integrity, security, confidentiality, and auditability of electronic records; and
- (4) any other required attributes for electronic records that are specified for corresponding nonelectronic records or reasonably necessary under the circumstances.

(c) Except as otherwise provided in section 111(f) of this chapter, this chapter does not require a governmental agency to use or permit the use of electronic records or electronic signatures.

Sec. 203. Standards adopted by a governmental agency under section 202 of this chapter must encourage and promote consistency and interoperability with similar requirements adopted by:

- (1) other governmental agencies;
- (2) other states;
- (3) the federal government; and
- (4) nongovernmental persons interacting with governmental agencies.

If appropriate, those standards must specify differing levels of standards from which governmental agencies may choose in implementing the most appropriate standard for a particular application.

Sec. 301. If any provision of this chapter or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter that can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

Sec. 302. This chapter applies to an electronic record or electronic signature created, generated, sent, communicated, received, or stored after June 30, 2000.

P.L.63-2000

[H.1419. Approved March 15, 2000.]

AN ACT to amend the Indiana Code concerning health.

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

SECTION 1. IC 9-18-2-16, AS AMENDED BY P.L.181-1999, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 16. (a) A person who owns a vehicle must sign an application in ink to register the vehicle.

(b) An application to register a vehicle must contain the following:

(1) The:

- (A) name, bona fide residence, and mailing address, including the name of the county, of the person who owns the vehicle; or
- (B) business address, including the name of the county, of the person that owns the vehicle if the person is a firm, a partnership, an association, a corporation, a limited liability company, or a unit of government.

If the vehicle that is being registered has been leased and is subject to the motor vehicle excise tax under IC 6-6-5 or the commercial vehicle excise tax under IC 6-6-5.5, the application must contain the address of the person who is leasing the vehicle. If the vehicle that is being registered has been leased and is not subject to the motor vehicle excise tax under IC 6-6-5 or the commercial vehicle excise tax under IC 6-6-5.5, the application must contain the address of the person who owns the vehicle, the person who is the lessor of the vehicle, or the person who is the lessee of the vehicle. If a leased vehicle is to be registered under the International Registration Plan, the registration procedures are governed by the terms of the plan.

(2) A brief description of the vehicle to be registered, including the following information if available:

- (A) The name of the manufacturer of the vehicle.
- (B) The vehicle identification number.
- (C) The manufacturer's rated capacity if the vehicle is a truck, tractor, trailer, or semitrailer.
- (D) The type of body of the vehicle.

(E) The model year of the vehicle.

(F) Any other information reasonably required by the bureau to enable the bureau to determine if the vehicle may be registered. The bureau may request the person applying for registration to provide the vehicle's odometer reading.

(3) A space on the application in which the person registering the vehicle may indicate the person's desire to donate money to organizations that promote the procurement of organs for anatomical gifts. The space on the application must:

(A) allow the person registering the vehicle to indicate the amount the person desires to donate; and

(B) provide that the minimum amount a person may donate is one dollar (\$1).

Funds collected under this subdivision shall be ~~distributed by the bureau as directed by the Indiana department of state health under deposited with the treasurer of state in a special account. The auditor of state shall monthly distribute the money in the special account to the anatomical gift promotion fund established by IC 16-19-3-26.~~ The bureau may deduct from the funds collected under this subdivision the costs incurred by the bureau in implementing and administering this subdivision.

(c) The department of state revenue may audit records of persons who register trucks, trailers, semitrailers, buses, and rental cars under the International Registration Plan to verify the accuracy of the application and collect or refund fees due.

SECTION 2. IC 16-19-3-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 26. **(a) The anatomical gift promotion fund is established. The fund consists of amounts distributed to the fund by the auditor of state under IC 9-18-2-16.**

(b) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds are invested. Interest that accrues from these investments shall be deposited in the fund.

(c) The state department shall administer the fund. Any expenses incurred in administering the fund shall be paid from the fund.

(d) The state department shall select appropriate organ procurement organizations to which the funds generated under ~~IC 9-18-2-16(b)(3)~~ money deposited in the fund shall be distributed.

(e) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

SECTION 3. [EFFECTIVE JULY 1, 2000] (a) **Before July 15, 2000, the bureau of motor vehicles shall deposit with the treasurer of state in the special account required by IC 9-18-2-16, as amended by this act, all donations collected by the bureau before July 1, 2000, under IC 9-18-2-16, as amended by this act. Before July 29, 2000, the auditor of state shall distribute the money deposited in the special account under this SECTION as follows:**

(1) Fifty thousand dollars (\$50,000) to the Indiana Donation Alliance Foundation for the establishment of a statewide telephone donor and patient referral system.

(2) All money remaining in the special account after the payment required under subdivision (1) to the anatomical gift promotion fund established under IC 16-19-3-26, as amended by this act.

(b) This SECTION expires July 1, 2001.

P.L.64-2000

[S.44. Approved March 15, 2000.]

AN ACT to amend the Indiana Code concerning natural and cultural resources.

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

SECTION 1. IC 14-26-2-23 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 23. The commission shall adopt rules in the manner provided in IC 14-10-2-4 to do the following:**

(1) Assist in the administration of this chapter.

(2) Provide objective standards for licensing:

(A) the placement of a temporary or permanent structure or material; or

(B) the extraction of material;

over, along, or within a shoreline or waterline. The standards shall exempt any class of activities from licensing if the commission finds that the class is unlikely to pose more than a minimal potential for harm to the public rights described in

section 5 of this chapter.

(3) Establish a process under IC 4-21.5 for the mediation of disputes among riparian owners or between a riparian owner and the department concerning the usage of an area over, along, or within a shoreline or waterline for a matter within the jurisdiction of this chapter. The rule must provide that:

(A) if good faith mediation under the process fails to achieve a settlement, the department shall make a determination of the dispute; and

(B) a person affected by the determination of the department may seek administrative review by the commission.

P.L.65-2000

[S.46. Approved March 15, 2000.]

AN ACT concerning natural and cultural resources.

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

SECTION 1. [EFFECTIVE UPON PASSAGE] (a) **The lake management work group is established. The activities of the work group established by this SECTION shall be directed to problems and issues associated with lakes that meet the definition of a public freshwater lake set forth in IC 14-26-2-3.**

(b) **The work group consists of twenty-six (26) members appointed as follows:**

(1) **Four (4) members of the general assembly, consisting of:**

(A) **two (2) members of the house of representatives who may not be members of the same political party, appointed by the speaker of the house of representatives; and**

(B) **two (2) members of the senate who may not be members of the same political party, appointed by the president pro tempore of the senate.**

(2) **Three (3) representatives of the department of natural resources, at least one (1) of whom must be an officer in the division of law enforcement.**

(3) **The commissioner of the department of environmental**

management or the commissioner's designee.

(4) One (1) representative of the Indiana Lake Management Society or a similar organization of citizens concerned about lakes. This member is appointed by the governor.

(5) One (1) representative of the Natural Resources Conservation Service of the United States Department of Agriculture appointed by the governor upon the recommendation of the Natural Resources Conservation Service.

(6) One (1) representative of soil and water conservation districts organized under IC 13-3-1 or IC 14-32-3 (before their repeal). This member is appointed by the governor.

(7) Ten (10) members appointed by the governor, each of whom is:

- (A) a participant in lake related recreational activities;
- (B) a resident of a lake area;
- (C) the owner or operator of a lake related business; or
- (D) interested in the natural environment of the lakes of Indiana.

(8) One (1) representative of the United States Army Corps of Engineers appointed by the governor upon the recommendation of the commander of the Louisville District of the United States Army Corps of Engineers.

(9) One (1) representative of an agricultural organization. This member is appointed by the governor.

(10) One (1) representative of an environmental organization. This member is appointed by the governor.

(11) Two (2) other individuals appointed by the governor as at-large members.

(c) When appointing two (2) members of the house of representatives to the work group under subsection (b)(1)(A), the chairperson of the legislative council shall appoint one (1) of the representatives as the chairperson of the work group to serve beginning July 1, 2000, and ending June 30, 2001.

(d) When appointing two (2) members of the senate to the work group under subsection (b)(1)(B), the chairperson of the legislative council shall appoint one (1) of the senators as the chairperson of the work group beginning on the date of the appointment and ending June 30, 2000. The chairperson of the legislative council shall again appoint one (1) senator as chairperson of the work group to serve beginning July 1, 2001 and ending June 30, 2002.

The work group shall meet at the call of the chairperson, however, the work group shall meet not less than two (2) times each year.

(e) To fill the positions created by subsection (b)(7), the governor shall appoint one (1) resident of each of the ten (10) congressional districts in Indiana. Each individual who was appointed by the governor as a member of the work group on December 31, 1999, under P.L.239-1997 (before its expiration) is appointed to serve on the work group until the governor appoints a successor.

(f) Each legislative member of the work group is entitled to receive the same per diem, mileage, and travel allowances paid to individuals who serve as legislative members of interim study committees established by the legislative council.

(g) Each lay member of the work group who is not a state employee is entitled to receive the same per diem, mileage, and travel allowances paid to individuals who serve as lay members of interim study committees established by the legislative council.

(h) The legislative council shall establish a budget for the work group to pay for per diem, mileage, and travel allowances.

(i) The work group is under the direction of the department of natural resources. The department may contract with a facilitator to facilitate the work of the work group. The department of natural resources shall staff the work group.

(j) The work group shall do the following:

- (1) Monitor, review, and coordinate the implementation of the work group's recommendations issued under P.L.239-1997.
- (2) Facilitate collaborative efforts among commonly affected state, county, and local governmental entities in cooperation with lake residents and related organizations.
- (3) Conduct public meetings to hear testimony and receive written comments concerning the implementation of the work group's recommendations.
- (4) Develop proposed solutions to problems concerning the implementation of the work group's recommendations.
- (5) Issue reports to the natural resources study committee when directed to do so.
- (6) Review all funding that is currently being utilized for Indiana's waterways, including potential sources that could be used as a resource for the Indiana General Assembly to correct funding problems.
- (7) Issue:

(A) an interim report before July 1, 2001; and

(B) a final report before July 1, 2002.

(k) The affirmative votes of a majority of the members appointed to the work group are required for the work group to take action on any measure, including final reports.

(l) The work group shall make its reports available to:

(1) the natural resources study committee;

(2) the department of natural resources; and

(3) the public.

(m) This SECTION expires July 1, 2002.

SECTION 2. An emergency is declared for this act.

P.L.66-2000

[S.76. Approved March 15, 2000.]

AN ACT to amend the Indiana Code concerning state and local administration.

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

SECTION 1. IC 5-10-10-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 27, 1997 (RETROACTIVE)]: Sec. 4. As used in this chapter, "public safety officer" means a state police officer, county sheriff, county police officer, correctional officer, excise police officer, county police reserve officer, city police reserve officer, conservation enforcement officer, town marshal, deputy town marshal, **probation officer**, or state university police officer appointed under IC 20-12-3.5.

SECTION 2. [EFFECTIVE APRIL 27, 1997 (RETROACTIVE)] **Notwithstanding IC 5-10-10-6, the amount of the special death benefit payable under IC 5-10-10, as amended by this act, to the surviving spouse of a probation officer who died in the line of duty after April 27, 1997, and before January 1, 1998, is one hundred fifty thousand dollars (\$150,000).**

SECTION 3. An emergency is declared for this act.

P.L.67-2000

[S.79. Approved March 15, 2000.]

AN ACT to amend the Indiana Code concerning human services.

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

SECTION 1. IC 12-14-15-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 1. Assistance shall be given to a needy disabled individual (referred to as "disabled person" in this chapter) who meets the following qualifications:

(1) Has a pending application on file with the federal Social Security Administration for assistance under Public Law 92-603, supplemental security income (SSI), or is receiving assistance. However, a person whose application for assistance under Public Law 92-603 has been denied but who meets all other requirements of this chapter is eligible for supplemental assistance.

(2) Has ~~a~~ **one (1) of the following:**

(A) A physical or mental impairment, disease, or loss that is verifiable by a physician licensed under IC 25-22.5 that appears reasonably certain to ~~continue throughout the lifetime of the individual~~ result in death or that has lasted or appears reasonably certain to last for a continuous period of at least four (4) years without significant improvement and that substantially impairs the individual's ability to perform labor or services or to engage in a useful occupation.

(B) A mental impairment, disease, or loss that is:

(i) diagnosed by a physician licensed under IC 25-22.5 or a health services provider in psychology licensed under IC 25-33-1; and

(ii) verifiable by a physician licensed under IC 25-22.5 or a psychologist licensed under IC 25-33;

that has lasted or appears reasonably certain to last for a continuous period of at least four (4) years without significant improvement and that substantially impairs the individual's ability to perform labor or services or to engage in a useful occupation. Employment in a sheltered workshop or under an

approved vocational rehabilitation plan is not considered a useful occupation for the purposes of this chapter. The determination of medical disability under this subdivision shall be made without reference to the individual's ability to pay for treatment.

(3) Does not have a parent, spouse, or other legally responsible relative able to support the individual.

(4) Is at least eighteen (18) years of age.

(5) Is residing and intends to remain in Indiana in a bona fide living arrangement.

(6) Has insufficient income or other resources to provide a reasonable subsistence according to the standards established by the division.

(7) Except as otherwise provided in this chapter, is not an inmate of or being maintained by a municipal, state, or national institution while receiving assistance.

(8) Has not, at any time within five (5) years immediately before the date of the filing of an application for assistance under this chapter, made an assignment or transfer of property for the purpose of making or that will make the individual eligible for assistance under this chapter, except as otherwise provided in this chapter.

SECTION 2. IC 12-15-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 4. Medicaid shall be granted to an applicant who is eligible for assistance under IC 12-15-2 and who meets the following requirements:

(1) Has made an application or a request for Medicaid in the manner required by the office or for whom an application or a request has been made.

(2) Is a resident of Indiana, including a resident temporarily absent from Indiana, and minor children who are under the care, supervision, and control of a parent or other relative who is a resident of Indiana.

(3) Has not made a transfer of property for the purpose of making the applicant eligible for Medicaid.

(4) Does not have a spouse having sufficient income to furnish medical assistance, or a parent having sufficient income to furnish medical assistance if the applicant is a blind or disabled child and who ~~is~~ **is less than eighteen (18) years of age.**

~~(A) less than eighteen (18) years of age; or~~

~~(B) at least eighteen (18) years of age but less than twenty-one~~

- (21) years of age and a student regularly attending a:
- (i) school;
 - (ii) college;
 - (iii) university; or
 - (iv) course of vocational or technical training designed to prepare the applicant for gainful employment.

P.L.68-2000

[S.117. Approved March 15, 2000.]

AN ACT concerning elections.

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

SECTION 1. [EFFECTIVE UPON PASSAGE] (a) The amendment to Article 7, Section 4 of the Constitution of the State of Indiana agreed to by the One Hundred Tenth General Assembly (P.L.132-1998) and the One Hundred Eleventh General Assembly (P.L.274-1999) shall be submitted to the electors of the state at the 2000 general election in the manner provided for the submission of constitutional amendments under IC 3.

(b) Under Article 16, Section 1 of the Constitution of the State of Indiana, which requires the general assembly to submit constitutional amendments to the electors at the next general election after the general assembly agrees to the amendment referred to it by the last previously elected general assembly, and in accordance with IC 3-10-3, the general assembly prescribes the form in which the public question concerning the ratification of this state constitutional amendment must appear on the 2000 general election ballot as follows:

"PUBLIC QUESTION #1

Shall Article 7, Section 4 of the Constitution of the State of Indiana be amended so that criminal appeals from a sentence of life imprisonment or a prison term of more than fifty years follow the same path through the Court of Appeals to the Indiana Supreme Court that civil appeals do?"

(c) This SECTION expires January 1, 2001.
SECTION 2. An emergency is declared for this act.

P.L.69-2000
[S.146. Approved March 15, 2000.]

AN ACT to amend the Indiana Code concerning state and local administration.

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

SECTION 1. IC 10-1-1-28 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 28. (a) As used in this section, "dies in the line of duty" refers to a death that occurs as a direct result of personal injury or illness resulting from any action that a motor carrier inspector is obligated or authorized by rule, regulation, condition of employment or service, or law to perform in the course of the inspector's regular duties.**

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

- (1) To the surviving spouse.**
- (2) If there is no surviving spouse, to the surviving children (to be shared equally).**
- (3) If there is no surviving spouse and there are no surviving children, to the parent or parents in equal shares.**

SECTION 2. An emergency is declared for this act.

P.L.70-2000
[S.147. Approved March 15, 2000.]

AN ACT to amend the Indiana Code concerning criminal law and procedure.

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

SECTION 1. IC 35-47-4.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]:

Chapter 4.5. Regulation of Laser Pointers

Sec. 1. This chapter does not apply to the use of a laser pointer:

- (1) for educational purposes by individuals engaged in an organized meeting or training class; or**
- (2) during the normal course of work or trade activities.**

Sec. 2. As used in this chapter, "laser pointer" means a device that emits light amplified by the stimulated emission of radiation that is visible to the human eye.

Sec. 3. As used in this chapter, "public safety officer" means:

- (1) a state police officer;**
- (2) a county sheriff;**
- (3) a county police officer;**
- (4) a correctional officer;**
- (5) an excise police officer;**
- (6) a county police reserve officer;**
- (7) a city police officer;**
- (8) a city police reserve officer;**
- (9) a conservation enforcement officer;**
- (10) a town marshal;**
- (11) a deputy town marshal;**
- (12) a state university police officer appointed under IC 20-12-3.5;**
- (13) a probation officer;**
- (14) a firefighter (as defined in IC 9-18-34-1);**
- (15) an emergency medical technician; or**
- (16) a paramedic.**

Sec. 4. A person who knowingly or intentionally directs light amplified by the stimulated emission of radiation that is visible to

the human eye or any other electromagnetic radiation from a laser pointer at a public safety officer without the consent of the public safety officer commits a Class B misdemeanor.

SECTION 2. IC 35-47-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 2. It is a Class B misdemeanor for a person to manufacture, possess, display, offer, sell, lend, give away, or purchase any knife with a blade that:

(1) opens automatically; **or**

(2) **may be propelled;**

by hand pressure applied to a button, **device containing gas**, spring, or other device in the handle of the knife.

P.L.71-2000

[S.158. Approved March 15, 2000.]

AN ACT to amend the Indiana Code concerning agriculture and animals.

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

SECTION 1. IC 15-5-1.1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 2. As used in this chapter:

"Accredited college of veterinary medicine" means a veterinary college or division of a university or college that:

(1) offers the degree doctor of veterinary medicine or its equivalent;

(2) conforms to the standards required for accreditation by the American Veterinary Medical Association; and

(3) is accredited by the American Veterinary Medical Association or an accrediting agency that has been approved by the United States ~~Office~~ **Department** of Education or its successor.

"Animal" means any animal other than man and includes birds, fish, mammals, and reptiles, wild or domestic.

"Approved program" means a program in veterinary technology that:

(1) conforms to the standards required for accreditation by the

American Veterinary Medical Association; and
(2) is accredited by the American Veterinary Medical Association or an accrediting agency that has been approved by the United States ~~Office~~ **Department** of Education or its successor.

"Board" means the Indiana board of veterinary medical examiners created by this chapter.

"Bureau" refers to the health professions bureau established by IC 25-1-5-3.

"ECFVG certificate" means a certificate issued by the American Veterinary Medical Association Educational Commission for Foreign Veterinary Graduates, indicating that the holder has demonstrated knowledge and skill equivalent to that possessed by a graduate of an accredited college of veterinary medicine.

"Extern" means a senior veterinary student enrolled in an accredited college of veterinary medicine, or a second year student enrolled in an approved program in veterinary technology, employed by or working with a licensed veterinarian and under his direct supervision.

"Licensed veterinarian" means an individual who is licensed pursuant to this chapter to practice veterinary medicine in this state.

"Person" means an individual, an incorporated or unincorporated organization or association or a group of such persons acting in concert.

"Practice of veterinary medicine" means:

- (1) representing oneself as engaged in the practice of veterinary medicine, veterinary surgery, or veterinary dentistry in any of its branches or using words, letters, or titles in a connection or under circumstances that **may** induce another person to believe that the person using them is engaged in the practice of veterinary medicine, veterinary surgery, or veterinary dentistry;
- (2) accepting remuneration for doing any of the things described in subdivisions (3) through (6);
- (3) diagnosing a specific disease or injury, or identifying and describing a disease process of animals, or performing any procedure for the diagnosis of pregnancy, sterility, or infertility upon animals;
- (4) prescribing a drug, medicine, appliance or application, or treatment of whatever nature for the prevention, cure, or relief of bodily injury or disease of animals;
- (5) performing a surgical or dental operation upon an animal; or
- (6) administering a drug, medicine, appliance, application, or treatment of whatever nature for the prevention, cure, or relief of

a wound, fracture, or bodily injury or disease of animals, except where such drug, medicine, appliance, application, or treatment is administered at the direction and under the direct supervision of a veterinarian licensed under this chapter.

"Registered veterinary technician" means a veterinary technician registered pursuant to this chapter to work under the direct supervision of a licensed veterinarian.

"Veterinarian" means an individual who was a licensed veterinarian on August 31, 1979, or who has received a professional degree from an accredited college of veterinary medicine.

"Veterinary medicine" includes veterinary surgery, obstetrics, dentistry, acupuncture, and all other branches or specialties of veterinary medicine.

"Veterinary technician" means an individual who has successfully completed a program in veterinary technology of at least two (2) years in a school that conforms to the standards required for accreditation by the American Veterinary Medical Association and that is accredited by the American Veterinary Medical Association.

SECTION 2. IC 15-5-1.1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 8. (a) The powers enumerated in this section are granted for the purpose of enabling the board to effectively supervise the practice of veterinary medicine and are to be construed liberally to accomplish this objective.

(b) The board is vested with the sole authority to determine the qualifications of applicants for:

- (1) a license to practice veterinary medicine in this state; and
- (2) registration to practice as a veterinary technician in this state.

(c) The board is vested with the sole authority to issue, renew, deny, suspend, or revoke:

- (1) licenses and special permits to practice veterinary medicine in this state; and
- (2) registrations or special permits to practice as a veterinary technician in this state.

(d) The board is vested with sole authority to discipline licensed veterinarians and registered veterinary technicians consistent with the provisions of this chapter and the rules adopted thereunder.

(e) The board is vested with the sole authority to determine the following:

- (1) The examinations applicants are required to take.
- (2) The subjects to be covered. ~~and~~

(3) The places where and the dates on which examinations will be given.

(4) The deadlines for applying to take the examinations.

(f) The board may establish by rule minimum standards of continuing education for the renewal of licenses to practice veterinary medicine and for the renewal of registrations as a veterinary technician.

(g) The board shall adopt by rule standards of professional conduct for the competent practice of veterinary medicine and the competent practice of a veterinary technician.

(h) Subject to IC 25-1-7, the board may conduct investigations for the purpose of discovering violations of this chapter:

(1) by licensed veterinarians or registered veterinary technicians;

or

(2) by persons practicing veterinary medicine without a license or persons practicing as a registered veterinary technician without being registered.

(i) The board may inspect, without notice and during normal working hours, veterinary hospitals, clinics, or other establishments to determine if such places meet the board's standards of cleanliness and sanitation as defined by the board's rules.

(j) The board may hold hearings on all matters properly brought before it and in connection thereto may administer oaths, receive evidence, make findings, and enter orders consistent with the findings. The board may require by subpoena the attendance and testimony of witnesses and the production of papers, records, or other documentary evidence and commission depositions. The board may designate one (1) or more of its members to serve as its hearing officer.

(k) The board may bring proceedings in the courts for the enforcement of this chapter or any rules made pursuant thereto.

(l) The board shall have fees collected for examining and licensing veterinarians and for examining and registering veterinary technicians.

(m) The board may enter into reciprocal agreements with its counterpart boards in other states and may effect such agreements by rule.

(n) The board may appoint from its own membership one (1) or more members to act as representatives of the board at any meeting within or without the state where such representation is deemed desirable.

(o) The bureau shall provide the board with full or part-time professional and clerical personnel and supplies including printed

matter and equipment necessary to effectuate the provisions of this chapter.

(p) The board may, in the manner prescribed by IC 4-22-2, adopt such reasonable rules as it deems necessary for the performance of its duties, consistent with this chapter and other applicable laws of this state. Any rule adopted under, and applicable to, the prior veterinarian and veterinary technician licensing and registration laws (IC 15-5-1 and IC 15-5-1.5) continues in effect under this chapter until rescinded or amended by the board.

(q) The board may adopt an appropriate seal which may be affixed to all license and registration certificates and other official documents of the board.

SECTION 3. IC 15-5-1.1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 9. ~~License and Registration Requirements and Exceptions.~~ **No A person may not practice veterinary medicine in this state Indiana unless he the person is a licensed as a veterinarian in Indiana or holds a special permit issued by the board, and no a person may not act as a veterinary technician in this state Indiana unless he the person is a registered as a veterinary technician in Indiana or holds a special permit issued by the board. except: The following persons are not required to meet the licensing, registration, or special permit requirements under this chapter:**

- (1) A veterinarian on the faculty of the School of Veterinary Medicine at Purdue University performing ~~his~~ regular duties, or a veterinarian employed by the animal disease diagnostic laboratory performing ~~his~~ regular duties.
- (2) A veterinarian employed by a federal, state, or local government agency performing ~~his~~ official duties.
- (3) An individual who is a regular student in an accredited college of veterinary medicine or veterinary technology performing duties or actions assigned by ~~his~~ instructors or working under the direct supervision of a licensed veterinarian.
- (4) An extern.
- (5) A veterinarian licensed and resident in another state or nation who occasionally consults with a licensed veterinarian.
- (6) The owner of an animal or ~~his~~ a regular employee **of the owner** caring for and treating that animal, except where the ownership of the animal was transferred for purposes of circumventing this chapter.

(7) A guest lecturing or giving instructions or demonstrations at the School of Veterinary Medicine at Purdue University, or elsewhere, in connection with a continuing education program.

(8) An individual while engaged in bona fide scientific research which reasonably requires experimentation involving animals.

(9) A graduate of a foreign college of veterinary medicine who is in the process of obtaining an ECFVG certificate and who is under the direct supervision of a licensed veterinarian. ~~and~~

(10) A veterinarian who is enrolled in a postgraduate instructional program in an accredited college of veterinary medicine, performing duties or actions assigned by ~~his~~ instructors or working under the direct supervision of a licensed veterinarian.

SECTION 4. IC 15-5-1.1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 11. (a) **As used in this subsection, "term" refers to an academic semester, trimester, or quarter.** A person desiring a license to practice veterinary medicine in this state shall make written application to the board. The application shall state that the applicant is:

- (1) a graduate of an accredited college of veterinary medicine; or
- (2) **enrolled in the last term of the last year of the veterinary medical curriculum of an accredited school of veterinary medicine.**

If the applicant is enrolled as a last term student as described in subdivision (2), a letter from the dean of the student's veterinary school confirming that the applicant is a last term student, attesting to the satisfactory academic standing of the student, and stating the date on which the degree is expected to be conferred upon the student must accompany the application. A license to practice veterinary medicine in Indiana may not be issued until satisfactory proof has been furnished to the board either that the applicant has graduated from an accredited college of veterinary medicine or that ~~he~~ **the applicant** is the holder of an Educational Commission for Foreign Veterinary Graduates (ECFVG) certificate. The application must show such reasonable information and proof as the board may require by rule. The application must be accompanied by the fee in the amount required under this chapter.

(b) When the board determines that the applicant possesses the proper qualifications, the board may grant the applicant a license. If an applicant is found not to be qualified to take the examination or for a license without examination, the executive secretary of the board shall

immediately notify the applicant in writing of such finding and the grounds therefore. Applicants found unqualified may request a hearing on the question of their qualifications.

SECTION 5. IC 15-5-1.1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 12. (a) The board shall hold at least one (1) examination for licensing veterinarians and one (1) examination for registering veterinary technicians each year but it may hold more. The bureau shall give notice of the time and place for each examination at least ninety (90) days in advance of the date set for the examination. A person desiring to take an examination must make application ~~at least forty-five (45) days before the date of the examination.~~ **not later than the time the board may prescribe under section 8(e) of this chapter.**

(b) The preparation, administration, and grading of examinations shall be approved by the board. Examinations shall be designed to test the examinee's knowledge of and proficiency in the subjects and techniques commonly taught in veterinary schools. To pass the examination, the examinee must demonstrate scientific and practical knowledge sufficient to prove to the board that the examinee is competent to practice veterinary medicine or to act as a veterinary technician, as the case may be. The board may adopt and use examinations approved by the National Board Examination Committee.

(c) To qualify for a license as a veterinarian or to be registered as a veterinary technician, the applicant must attain a passing score in the examinations.

(d) After the examinations, the bureau shall notify each examinee of the result of ~~his~~ **the examinee's** examinations and the board shall issue a license or registration certificate, as appropriate, to each individual who successfully completes the examinations and is otherwise qualified. The bureau shall keep a permanent record of the issuance of each license or registration certificate.

(e) An individual who fails to pass the required examinations may apply to take a subsequent examination. However, payment of the examination fee shall not be waived.

(f) A license or registration certificate issued under this article is valid for the remainder of the renewal period in effect on the date of issuance.

SECTION 6. IC 15-5-1.1-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 19. (a) An individual who practices veterinary medicine after ~~his~~ **the individual's** license has

expired, **been revoked, or been placed on inactive status** or an individual who acts as a registered veterinary technician after ~~his~~ **the individual's** registration has expired, **been revoked, or been placed on inactive status** is in violation of this chapter.

(b) A veterinarian may renew an expired license or a veterinary technician may renew an expired registration certificate within five (5) years of the date of expiration by making written application for renewal and paying the fee ~~prescribed in section 20 or 21~~ **established by rules as provided in section 20.2** of this chapter. After five (5) years have elapsed since the date of the expiration of a license or a registration certificate it may not be renewed, but the person may make application for a new license or registration certificate and take the appropriate examinations.

~~(b)~~ (c) **To have a license or registration placed on inactive status, a licensed veterinarian or registered veterinarian technician must notify the board in writing of the veterinarian's or technician's desire to have the license or registration placed on inactive status.** The board ~~may~~ **shall** waive the **continuing education requirements, if any, and** payment of the renewal fee ~~of a licensed veterinarian or registered veterinary technician during the period he is on~~ **during the period the board places the license or registration of a veterinarian or technician on inactive status. A license or registration may be placed on inactive status during the period:**

- (1) **the veterinarian or technician is on active duty with any branch of the armed services of the United States;**
- (2) **the veterinarian or technician is in the Peace Corps; or**
- (3) **the veterinarian or technician is in an ~~doing~~ alternative service** However, the board may not waive the fee for a period that exceeds three ~~(3)~~ years or the duration of a national emergency, ~~whichever is longer.~~ **during a time of national emergency;**
- (4) **the veterinarian or technician is suffering from a severe medical condition that would prevent the veterinarian or technician from meeting the requirements of the board; or**
- (5) **after the veterinarian or technician retires.**

A veterinarian or technician who is retired and on inactive status may not maintain an office or otherwise practice veterinary medicine. The board may adopt rules under IC 4-22-2 that establish prerequisites or conditions for the reactivation of an inactive license or registration.

SECTION 7. IC 15-5-1.1-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 23. Upon written complaint sworn to by any individual, the board may, by the concurrence of four (4) members, after a hearing and based upon findings of fact, discipline a registered veterinary technician by revoking or suspending **his the technician's** registration for a time certain, placing **him the technician** on probation, or by any other appropriate means for any of the following reasons:

- (1) The use of fraud, misrepresentation, or deception in obtaining **his a** registration.
- (2) Chronic inebriety, or the unlawful use of a controlled substance.
- (3) The use of advertising or solicitation which is false or misleading or is otherwise deemed unprofessional under rules promulgated by the board.
- (4) Conviction of or a plea of guilty to the charge of a felony or misdemeanor involving moral turpitude.
- (5) Incompetence, gross negligence, or malpractice in performing as a registered veterinary technician.
- (6) Cruelty to animals.
- (7) Representing **himself the technician** as a veterinarian.
- (8) Disciplinary action taken against the technician's registration by the board or by the licensing agency of any other state or jurisdiction by reason of the technician's inability to practice safely as a registered veterinary technician, if the reason is valid in the opinion of the board.

SECTION 8. IC 15-5-1.1-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 25. ~~Identification of Registered Veterinary Technicians:~~ (a) During working hours or when actively performing **his the technician's** duties, a registered veterinary technician must wear a unique mark of identification on **his the technician's** clothing approved by the board that identifies **him the technician** as a registered veterinary technician.

(b) A registered veterinary technician may use the title "registered veterinary technician" or the abbreviation "R.V.T."

(c) No individual, other than a registered veterinary technician may advertise or offer **his the individual's** services in a manner calculated to lead others to believe that **he the individual** is a trained veterinary technician or a registered veterinary technician.

SECTION 9. IC 15-5-1.1-26 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 26. ~~Restrictions on Registered Veterinary Technicians~~: A registered veterinary technician may not diagnose, prognose, prescribe medical or surgical treatment, or perform as a surgeon. However, ~~he~~ **the technician** may perform routine procedures defined by board rules while under the direct supervision of a licensed veterinarian who shall be responsible for ~~his~~ **the technician's** performance.

SECTION 10. IC 15-5-1.1-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 27. ~~Direct Supervision of Veterinary Employees~~: A licensed veterinarian who is required to directly supervise an employee must be present within ~~his~~ **the veterinarian's** usual practice area, able to communicate directly with ~~his~~ **the** employee at all times that the employee is performing animal health care, and prepared to personally assume treatment, if necessary for the welfare of the animal. Direct communication may be verbal, by telephone, or by two-way radio. Such instructions must be recorded by the employee and repeated by ~~him~~ **the employee** to ~~his~~ **the employee's** supervising licensed veterinarian.

SECTION 11. IC 15-5-1.1-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 28. ~~Display of Certificates~~: The holder of a license or special permit to practice veterinary medicine or of a registration or special permit to act as a veterinary technician, must display ~~his~~ **the** certificate of license, registration, or special permit in such a manner as to be visible and readable by persons in the office of the veterinarian.

SECTION 12. IC 15-5-1.1-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 29. ~~Prescriptions~~: A licensed veterinarian may write prescriptions, and ~~his~~ **the** prescriptions shall be given the same recognition by druggists and pharmacists as they give the prescriptions of persons holding an unlimited license to practice medicine or osteopathic medicine.

SECTION 13. IC 15-5-1.1-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 30. ~~Emergencies~~: Notwithstanding any other provision in this chapter, in an emergency, in the absence of ~~his~~ **the** licensed veterinarian employer, an employee may perform the duties it is lawful for ~~him~~ **the employee** to perform under the direct supervision of a licensed veterinarian in accordance with the rules of the board and the written authority of ~~his~~ **the** licensed veterinary employer.

SECTION 14. IC 15-5-1.1-31 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 31. ~~Good Samaritan Deeds~~. A licensed veterinarian or a registered veterinary technician who on ~~his~~ **the veterinarian's or technician's** own initiative gives emergency treatment to a sick or injured animal is not liable in damages to the owner of such animal in the absence of gross negligence. If a licensed veterinarian performs euthanasia on the animal, there is a presumption that such was a humane act, necessary to relieve it of pain and suffering.

SECTION 15. IC 15-5-1.1-33 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 33. ~~Abandoned Animals~~. (a) An animal placed in the custody of a veterinarian shall be considered to be abandoned five (5) days after the veterinarian has given written notice to the individual who delivered the animal to ~~him~~ **the veterinarian** that the animal should be reclaimed by the individual. Such written notice shall be delivered to the place given by the individual as ~~his~~ **the individual's** mailing address at the time ~~he~~ **the individual** delivered the animal to the veterinarian.

(b) Abandonment of an animal under this section constitutes the relinquishment of all rights and claims by the owner of the animal and it may be sold or otherwise disposed of as the veterinarian may see fit and the purchaser or donee of the animal shall receive full and clear title to the animal.

(c) The giving of notice as provided in this section relieves the veterinarian and all persons who receive such an animal from the veterinarian of criminal or civil liability.

(d) The individual who delivered an animal abandoned under this section is liable for all reasonable and customary expenses incurred for diagnosis, treatment, hospitalization, surgery, board, euthanasia, and disposal of the abandoned animal.

SECTION 16. IC 15-5-1.1-34 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 34. A person who knowingly:

(1) practices veterinary medicine in this state without a license or special permit to practice veterinary medicine issued by the board; or

(2) supplies false information on ~~his~~ **an** application for a license as a veterinarian;

commits a Class B misdemeanor.

SECTION 17. IC 15-5-1.1-35 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 35. A person who

knowingly:

- (1) acts as a registered veterinary technician in this state without being registered as a veterinary technician with the board or having a special permit issued by the board; or
- (2) supplies false information on ~~his~~ **an** application for registration as a veterinary technician;

commits a Class B misdemeanor.

SECTION 18. IC 25-1-9-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 10. (a) The board may summarily suspend a practitioner's license for ninety (90) days before a final adjudication or during the appeals process if the board finds that a practitioner represents a clear and immediate danger to the public health and safety if the practitioner is allowed to continue to practice. The summary suspension may be renewed upon a hearing before the board, and each renewal may be for ninety (90) days or less.

(b) Before the board may summarily suspend a license that has been issued under **IC 15-5-1.1**, IC 25-22.5 or IC 25-14, the consumer protection division of the attorney general's office shall make a reasonable attempt to notify a practitioner of a hearing by the board to suspend a practitioner's license and of information regarding the allegation against the practitioner. The consumer protection division of the attorney general's office shall also notify the practitioner that the practitioner may provide a written or an oral statement to the board on the practitioner's behalf before the board issues an order for summary suspension. A reasonable attempt to reach the practitioner is made if the consumer protection division of the attorney general's office attempts to reach the practitioner by telephone or facsimile at the last telephone number of the practitioner on file with the board.

(c) After a reasonable attempt is made to notify a practitioner under subsection (b):

- (1) a court may not stay or vacate a summary suspension of a practitioner's license for the sole reason that the practitioner was not notified; and
- (2) the practitioner may not petition the board for a delay of the summary suspension proceedings.

SECTION 19. [EFFECTIVE JULY 1, 2000] **(a) Notwithstanding IC 15-5-1.1-19, as amended by this act, the Indiana board of veterinary medical examiners shall renew and place on inactive status a license or registration that expired in 1999, if the former licensee or registrant requests renewal and inactive status in**

writing not later than July 1, 2001.

(b) This SECTION expires July 1, 2002.

P.L.72-2000

[S.162. Approved March 15, 2000.]

AN ACT to amend the Indiana Code concerning education.

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

SECTION 1. IC 20-5-7-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 0.5. As used in this chapter, "treasurer" includes an assistant treasurer or a deputy treasurer.**

SECTION 2. IC 20-5-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1. **(a)** Every public school in the state of Indiana shall have a treasurer for the purpose of this chapter who shall be the superintendent or principal of the particular school or some clerk of the school corporation or member of the faculty appointed by such superintendent or principal, such designation to be made immediately upon the opening of the school term or the vacating of such treasurership. All claims shall be filed and paid in accordance with the terms of section 2 of this chapter, and the power to appoint and engage such school treasurer or clerk is hereby granted to the employing and/or appointing officials of the school.

(b) A school corporation may appoint one (1) or more assistant or deputy treasurers.

P.L.73-2000

[S.171. Approved March 15, 2000.]

AN ACT to amend the Indiana Code concerning economic development.

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

SECTION 1. IC 4-4-6.1-1.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000 (RETROACTIVE)]: Sec. 1.1. As used in this chapter, "zone business" means any entity that accesses at least one (1) tax credit or exemption incentive available under this chapter, **IC 6-1.1-20.8, IC 6-2.1-3-32, or IC 6-3-3-10.**

SECTION 2. IC 6-3.1-7-2, AS AMENDED BY P.L.120-1999, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000 (RETROACTIVE)]: Sec. 2. (a) A taxpayer is entitled to a credit against ~~his~~ **the taxpayer's** state tax liability for a taxable year if ~~he~~ **the taxpayer:**

- (1) receives interest on a qualified loan in that taxable year;
- (2) pays the registration fee charged to zone businesses under IC 4-4-6.1-2;**
- (3) provides the assistance to urban enterprise associations required from zone businesses under IC 4-4-6.1-2(b); and**
- (4) complies with any requirements adopted by the enterprise zone board under IC 4-4-6.1 for taxpayers claiming the credit under this chapter.**

However, if a taxpayer is located outside of an enterprise zone, subdivision (4) does not require the taxpayer to reinvest its incentives under this section within the enterprise zone, except as provided in subdivisions (2) and (3).

(b) The amount of the credit to which a taxpayer is entitled under this section is five percent (5%) multiplied by the amount of interest received by the taxpayer during the taxable year from qualified loans.

(c) If a pass through entity is entitled to a credit under subsection (a) but does not have state tax liability against which the tax credit may be applied, an individual who is a shareholder, partner, beneficiary, or member of the pass through entity is entitled to a tax credit equal to:

- (1) the tax credit determined for the pass through entity for the

taxable year; multiplied by

(2) the percentage of the pass through entity's distributive income to which the shareholder, partner, beneficiary, or member is entitled.

The credit provided under this subsection is in addition to a tax credit to which a shareholder, partner, beneficiary, or member of a pass through entity is entitled. However, a pass through entity and an individual who is a shareholder, partner, beneficiary, or member of a pass through entity may not claim more than one (1) credit for the qualified expenditure.

SECTION 3. [EFFECTIVE JANUARY 1, 2000 (RETROACTIVE)] IC 4-4-6.1-1.1 and IC 6-3.1-7-2, both as amended by this act, apply to taxable years beginning after December 31, 1999.

SECTION 4. An emergency is declared for this act.

P.L.74-2000

[S.175. Approved March 15, 2000.]

AN ACT concerning human services.

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

SECTION 1. [EFFECTIVE UPON PASSAGE] (a) The department of correction, in cooperation with the office of the secretary of family and social services, shall conduct a study of individuals with developmental disabilities who are:

(1) incarcerated; and

(2) considered to be adults (as defined in IC 11-8-1-2).

(b) The study conducted under subsection (a) must include the following:

(1) The number of individuals described in subsection (a) who are identified after October 31, 1999, through current intake testing procedures.

(2) The types of crimes for which individuals with developmental disabilities are convicted.

(c) The department of correction and the office of the secretary of family and social services shall report their findings to the

Indiana commission on mental retardation and developmental disabilities not later than September 30, 2000.

(d) The report required under subsection (c) must include recommendations for a comprehensive study of the criminal justice system and individuals with developmental disabilities who are incarcerated, on parole, or on probation. The study recommended under this subsection must include as an objective a comparison of the length of time actually served by individuals with developmental disabilities and the length of time actually served for similar offenses by individuals without developmental disabilities.

(e) This SECTION expires December 31, 2000.

SECTION 2. An emergency is declared for this act.

P.L.75-2000

[S.178. Approved March 15, 2000.]

AN ACT to amend the Indiana Code concerning professions and occupations.

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

SECTION 1. IC 25-20.5-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 4. As used in this chapter, "hypnotism" means a temporary condition of altered or intensified attention induced in an individual by a person who professes to be a hypnotist, in which the condition is characterized by a variety of phenomena that appear spontaneously or in response to verbal or other stimuli, including the following phenomena:

- (1) Alterations in consciousness and memory.
- (2) Increased suggestibility.
- (3) The production of responses and ideas unfamiliar to the individual in the individual's usual state of mind.

The term includes neurolinguistic programming, transformational imagery, guided imagery, and visualization.

SECTION 2. IC 25-20.5-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 7. (a) There is created

a six (6) member Indiana hypnotist committee to assist the board in carrying out this chapter regarding the qualifications and examinations of hypnotists. The committee is comprised of:

- (1) three (3) hypnotists;
- (2) one (1) physician licensed under IC 25-22.5;
- (3) one (1) licensed psychologist who has received a health service provider endorsement under IC 25-33-1-5.1; and
- (4) one (1) individual who is a resident of Indiana and who is not associated with hypnotism in any way, other than as a consumer.

(b) The governor shall make each appointment for a term of three (3) years. Each hypnotist appointed must:

- (1) be a certified hypnotist for at least three (3) years under this chapter;
- (2) have at least three (3) years experience in the actual practice of hypnotism immediately preceding appointment; and
- (3) be a resident of Indiana and actively engaged in the practice of hypnotism while a member of the committee.

(c) Not more than three (3) members of the committee may be from the same political party. A member of the ~~board~~ **committee** is not required to be a member of a professional hypnosis association. **However, no two (2) hypnotist members appointed to the committee may belong to the same professional hypnosis association.**

(d) A member of the committee may be removed for cause by the governor.

(e) The board shall appoint a chairman from among the members of the committee.

SECTION 3. IC 25-20.5-1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 11. (a) An individual who applies for a certificate as a hypnotist must do the following:

- (1) Present satisfactory evidence to the committee that the individual:
 - (A) does not have a conviction for a crime that has a direct bearing on the individual's ability to practice competently;
 - (B) has not been the subject of a disciplinary action by a licensing or certification agency of another state or jurisdiction on the grounds that the individual was not able to practice as a hypnotist without endangering the public; and
 - (C) has at least three hundred fifty (350) hours of hypnotism education from ~~a~~ **an Indiana** school or program of hypnotism

that is approved by the board that includes Indiana commission on proprietary education (referred to as "the commission" in this clause) under IC 20-1-19 or from any other state approved school or program that is found by the commission to have requirements as stringent as necessary for the commission's approval of an Indiana school or program of hypnotism, including the following:

(i) At least one hundred fifty (150) hours of supervised practice of hypnotism with a qualified supervisor, with not less than one (1) hour of personal supervision for every fifteen (15) hours of supervised practice.

(ii) At least one hundred fifty (150) hours of classroom instruction in the practice of hypnotism. A classroom hour may not be less than a fifty (50) minute period of instruction with both the instructor and student in attendance. Classroom instruction does not include video tape correspondence courses or other forms of electronic presentation.

(iii) At least fifty (50) hours of video tape instruction in the practice of hypnotism. Video tape instruction may be used as a home study assignment.

(2) Pay the fee established by the board.

(b) An individual may not enroll in a school or program of hypnotism to satisfy the requirement under subsection (a)(1)(C) unless the individual:

(1) is at least eighteen (18) years of age; and

(2) has graduated from high school or received a:

(A) high school equivalency certificate; or

(B) state of Indiana general education development (GED) diploma under IC 20-10.1-12.1.

SECTION 4. IC 25-20.5-1-24 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 24. A hypnotist may not use, advocate, teach, or condone the following practices while engaged in the practice of hypnotism or advertising hypnotism services:**

(1) Satanism.

(2) Satanic rituals.

(3) Spiritualism.

(4) Spirit or demon deposal.

SECTION 5. P.L.175-1997, SECTION 8, IS AMENDED TO READ

AS FOLLOWS [EFFECTIVE UPON PASSAGE]: (a) The governor shall make the initial appointments to the Indiana hypnotist committee established by IC 25-20.5-1-7, as added by this act, before July 1, 1997.

(b) Notwithstanding IC 25-20.5-1-7, as added by this act, the initial terms of office of the members of the Indiana hypnotist committee are as follows:

- (1) One (1) hypnotist member and the licensed psychologist member for terms of one (1) year.
- (2) One (1) hypnotist member and the consumer member for terms of two (2) years.
- (3) One (1) hypnotist member and the physician member for terms of three (3) years.

(c) Notwithstanding IC 25-20.5-1-7, as added by this act, an individual appointed to the Indiana hypnotist committee as a member under this SECTION does not need to be certified as a hypnotist. However, a hypnotist member must have completed at least three hundred (300) supervised classroom hours of hypnotism education from a school that is approved by the Indiana commission on proprietary education under IC 20-1-19 or by any other state that has requirements as stringent as required in Indiana. No two (2) hypnotist members appointed to the Indiana hypnotist committee may belong to the same professional hypnosis association (as defined by IC 25-20.5-1-6).

(d) Notwithstanding IC 25-20.5-1-15, as added by this act, an individual who applies for certification to the Indiana hypnotist committee before January 1, ~~1998~~, **2005**, may:

- (1) be certified as a hypnotist without being required to take the examination if the individual has completed at least three hundred (300) supervised classroom hours of hypnotism education from a school that is approved by the Indiana commission on proprietary education under IC 20-1-19 or by any other state that has requirements as stringent as required in Indiana; or
- (2) take the examination, notwithstanding the individual's failure to meet the requirements of IC 25-20.5-1-10(a)(1)(C), as added by this act, if the individual meets the other requirements under IC 25-20.5-1-10, as added by this act, and has had at least ten (10) years of continued experience in hypnotism or has completed before July 1, 1997, a course in hypnotism from a state approved school that included less than three hundred (300) classroom hours.

(e) This SECTION expires July 1, ~~2000~~ **2005**.
SECTION 6. An emergency is declared for this act.

P.L.76-2000

[S.204. Approved March 15, 2000.]

AN ACT to amend the Indiana Code concerning trusts and fiduciaries.

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

SECTION 1. IC 30-2-13-12.5, AS ADDED BY P.L.114-1999, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 12.5. (a) This section applies to the following contracts entered into or established under this chapter after June 30, 1999:

- (1) Contracts for prepaid services.
 - (2) Contracts for prepaid merchandise.
 - (3) Trusts or escrows established to hold consideration paid for services or merchandise subject to a contract entered into under this chapter.
- (b) A contract between a purchaser and a seller must:
- (1) specify that the consideration for the contract is:
 - (A) cash, payable either in lump sum or installments; or
 - (B) an insurance policy that is:
 - (i) newly issued in conjunction with and integral to the contract;
 - (ii) issued previously in a transaction separate and distinct from the contract; or
 - (iii) both.

If a contract is funded with an insurance policy, the ownership of the policy must be irrevocably assigned to a trustee, and the seller may not borrow against, pledge, withdraw, or impair the cash value of the policy;

- (2) specify that only the purchaser, acting by written notice to the seller, may revoke the contract within thirty (30) days after the date the contract is signed by the purchaser and the seller and that

the contract becomes irrevocable upon the expiration of the thirty (30) day period;

(3) specify that, if the contract is revoked, the seller shall refund and return to the purchaser, without interest, the cash or insurance policy used to fund the contract;

(4) specify that not more than thirty (30) days after the contract is signed by the purchaser and the seller, the whole of the cash or insurance policy serving as consideration for the contract must be deposited into a trust or escrow authorized by subsection (c) or (d). However, a seller may elect to serve as trustee of a previously existing life insurance contract;

(5) except as provided in subsection (f), unconditionally require that the seller shall deliver all services or merchandise, or both, specified in the contract and receive as consideration for the delivery of services or merchandise, or both, only the cash or insurance policy held in trust or escrow without regard to the solvency of the insurer or the adequacy or loss in value of any cash deposit or insurance policy used to fund a contract;

(6) except as provided in subsection (f), prohibit a seller from imposing additional charges to recover any shortage or difference between the retail prices for services or merchandise, or both, in effect on the date of delivery of the services or merchandise, or both, and the value of the trust or escrow applicable to the contract on the date of delivery;

(7) require that a seller accepting the transfer of a contract permitted under section 13 of this chapter shall honor the requirements and obligations of the contract;

(8) permit the seller to assess a finance charge on a contract sold on an installment basis and require that the seller disclose to the purchaser the applicable requirements of federal and Indiana law;

(9) provide that the contract must comply with the following requirements:

(A) The contract must be made in a form that is:

(i) written in clear and understandable language; and

(ii) printed in a size and style of type that is easy to read.

(B) The contract must describe the services, merchandise, or cash advance items being purchased.

(C) The contract must identify the following by name, address, and telephone number:

(i) The seller.

- (ii) The purchaser.
- (iii) The contract beneficiary if the beneficiary is an individual other than the purchaser.
- (D) The contract must contain the seller's certificate of authority number and the date of the contract.
- (E) The contract must provide that if an item of the particular services or merchandise specified in the contract is unavailable at the time of delivery, the seller shall deliver services or merchandise similar in style, quality, and of equal value to the unavailable item in the place of the item.
- (F) The contract must disclose the precise manner in which the contract is to be funded by:
 - (i) identifying the consideration for the contract;
 - (ii) identifying the name, number, if known, and issuer of any insurance policy used to fund the contract; and
 - (iii) including the identity and location of the trustee or escrow agent who is to hold the trust or escrow.
- (G) The contract must disclose that the seller reserves the right to assess an extra charge for:
 - (i) transportation costs;
 - (ii) services or merchandise incurred in the transport of human remains a distance greater than twenty-five (25) miles from the seller's place of business; and
 - (iii) service charges necessarily incident to the transport of human remains and in excess of those service charges specified in the contract.
- (H) The contract must disclose the following:
 - (i) The amount, if any, the seller has elected to receive under subsection (c)(1) or subsection (d)(6).
 - (ii) That a commission or fee may be paid to the seller or the seller's agent on a contract funded under subsection (b)(1)(B)(i).
- (10) specify that a purchaser has the unrestricted right to designate one (1) or more successor sellers to whom the contract may be transferred under section 13 of this chapter, but that such a transfer is effective only with the consent of the newly designated seller and upon the fulfillment of the other requirements of section 13 of this chapter;
- (11) specify that if cash advance items are funded in the contract, the seller agrees to deliver the cash advance items under one (1)

of the following alternatives:

- (A) Delivery is unconditionally guaranteed at the option of the seller.
 - (B) Delivery is conditionally guaranteed for a seller and will be equal in value to the total value of the trust or escrow account maintained for the purchaser multiplied by the percentage of the total original contract price represented by cash advance items;
- (12) specify that a release from trust or escrow shall occur only upon the seller's delivery of services or merchandise, or both;
- (13) permit, at the option of the seller, the incorporation of the trust or escrow language contained in subsection (c) or (d) directly into the contract;
- (14) prohibit the seller from charging any service, transaction, or other type of fee or charge unless the fee is:
- (A) authorized under subsections (c)(1) and (d)(6) and section 27 of this chapter; or
 - (B) included within the definitions contained in section 8 or 11.5 of this chapter.
- (c) A trust account authorized and established under this chapter must do all of the following:
- (1) Be irrevocable and require either of the following:
 - (A) The seller deposit the insurance policy used to fund the contract into the trust account. However, for contracts funded after June 30, 1995, with a previously issued insurance policy, the seller may serve instead of a trustee if the seller is qualified to do so under section 11(c) of this chapter.
 - (B) The seller deposit the cash used to fund the contract into the trust account. However, as consideration for the sale of the contract and any expense incurred by the seller in conjunction with the sale of the contract, the contract must permit the seller to notify, within a ten (10) day period following the date the contract becomes irrevocable, the trustee of its election to receive only up to ten percent (10%) of the seller's original contract price for services or merchandise, or both.
 - (2) Designate the seller as the beneficiary of the trust.
 - (3) Designate a trustee qualified under this chapter and authorize the trustee to assess the charges authorized under section 18 of this chapter.
 - (4) Require that a separate account be maintained in the name of

each purchaser.

(5) Require that any interest, dividend, or accumulation in the account be reinvested and added to the principal.

(6) Permit the assets of the several, separate accounts to be commingled for investment purposes.

(7) Require that on receipt of the seller's proof of delivery of services or merchandise the trustee shall remit to the seller the full amount in trust applicable to the purchaser's contract and all of the accumulated interest.

(8) Permit the seller to retain the remaining amount if the amount in the trust account is greater than the seller's total current retail price of all services and merchandise subject to the contract at the time of delivery of all services or merchandise subject to the contract. However, in the case of a contract funded under subsection (b)(1)(B)(ii), the seller may not retain the remaining amount but must pay the remaining amount to the ~~designated beneficiary.~~ **entity or individual designated by the insured as the beneficiary of the death benefit proceeds not later than sixty (60) days after the receipt and deposit of the proceeds by the seller. The seller may not qualify as a beneficiary of the remaining amount or the insurance death benefit.** In the case of all other contracts funded under this chapter, the seller may opt to return the remaining amount to the individual designated by the purchaser to receive the remainder or to the purchaser's estate.

(d) An escrow account authorized and established under this chapter must do all of the following:

(1) Be irrevocable and require that the seller deposit all cash or the insurance policy used to fund the contract into the escrow account.

(2) Designate the seller as the recipient of the escrow funds.

(3) Designate an escrow agent qualified under this chapter to act as escrow agent and authorize the escrow agent to assess the charges authorized under section 18 of this chapter.

(4) Require that the escrow account be maintained in the name of the seller and serve as a depository for all cash or insurance policies used to fund contracts sold by the seller.

(5) Permit the investment of and commingling of cash for investment purposes.

(6) Permit the seller to receive an administrative or service fee at the option of the seller. The seller may opt to receive the fee after

the day following the date the contract becomes irrevocable. The amount of the fee may not exceed ten percent (10%) of the seller's total contract price for services or merchandise or both.

(7) Require that on delivery of services or merchandise, the escrow agent shall remit to the seller an amount equal to:

(A) the seller's original retail price as set forth in the contract for the services or merchandise delivered; minus

(B) the amount, if any, received by the seller under subdivision (6).

(8) Permit the seller to receive monthly payments of the interest earned and the appreciation in the value of the escrow assets to the extent that the total value of the escrow after a payment authorized under this subdivision is not less than:

(A) the original contract value of all services or merchandise under the contracts, or parts of the contracts that remain undelivered; minus

(B) the amounts, if any, received by the seller under subdivision (6).

(e) A trust account or an escrow account established under this section must contain a concise written description of all the provisions of this chapter that apply to the account.

(f) A seller's guarantee of delivery of all services or merchandise subject to a contract sold by the seller or transferred to a seller is unconditional except in the instance of one (1) of the following circumstances:

(1) An installment contract funded with cash or an insurance policy issued in conjunction with the contract is guaranteed to the extent of the cash paid or death benefits available at the time of death of the individual for whom services or merchandise are to be provided.

(2) A contract funded with an insurance policy issued previously and not in conjunction with the contract is guaranteed to the extent of the death benefit proceeds available at the time of the individual for whom services or merchandise are to be provided.

(3) A contract funded with an insurance policy issued in conjunction with the contract, but having a limited or qualified death benefit period, is guaranteed to the extent of the death benefit proceeds available at the time of the death of the individual for whom services or merchandise are to be provided.

(4) A transportation expense incurred by the seller while

transporting human remains a distance greater than twenty-five (25) miles from the seller's place of business, plus any charge for services or merchandise necessarily incident to the transport of the human remains.

(5) The seller agrees to conditionally guarantee the delivery of cash advance items under subsection (b)(11)(B).

In the instance of unguaranteed delivery, the seller may reduce the value or number of the services or merchandise subject to the contract or cash advance items delivered or deliver the services or merchandise in full on the condition that the seller receives adequate consideration to compensate the seller for the unguaranteed part of the contract.

(g) The entire value of an escrow or trust established under this chapter may not be considered as a resource in determining a person's eligibility for Medicaid under IC 12-15-2-17.

(h) This chapter does not prohibit a purchaser from immediately making the trust or escrow required under this chapter irrevocable and assigning ownership of an insurance policy used to fund a contract to obtain favorable consideration for Medicaid, Supplemental Security Income, or another public assistance program under federal or state law.

(i) A seller may not accept or deposit into a trust or escrow account cash, an insurance policy, or any other property as consideration for services or merchandise to be provided in the future except in conjunction with a contract authorized by this chapter.

SECTION 2. IC 30-2-13-13, AS AMENDED BY P.L.114-1999, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 13. (a) Notwithstanding section 10 of this chapter, as used in this section, "seller" means an individual, a person doing business as a sole proprietor, a firm, a corporation, an association, a limited liability company, or a partnership:

- (1) contracting to provide prepaid or at-need services or merchandise, or both, to a named individual; and
- (2) holding a certificate of authority under this chapter.

(b) A purchaser has the option to designate one (1) or more successor sellers to provide:

- (1) prepaid services or merchandise; or
- (2) at-need services or merchandise.

A purchaser who exercises the purchaser's option to designate a successor seller shall give written notice of the designation to the currently designated seller, successor seller, and trustee or escrow

agent. Only a purchaser may exercise the option to designate a new seller. However, the designation is ineffective unless the newly designated seller consents to the designation.

(c) If a purchaser designates a successor seller, and the successor seller consents to the designation, not less than thirty (30) days after receiving notice under subsection (b), the seller who was previously designated shall:

- (1) relinquish and transfer all rights under the contract;
- (2) transfer to the successor the contract; and
- (3) release from trust or escrow for subsequent deposit to the successor seller's trust or escrow all property being held as consideration for the contract, together with an itemized statement disclosing all services or merchandise delivered as of the date of transfer.

The seller and the successor sellers shall cooperate to ensure that there is no forfeiture or loss of a right or benefit under the contract and that all contract terms are fulfilled. ~~Except for out-of-state transfers, the seller who was previously designated may elect to charge a successor seller a transfer fee not to exceed five percent (5%) of the previously designated seller's contract price.~~ If similar prepaid or at-need services or merchandise are purchased from one (1) or more sellers, the contract that is first in time prevails and is valid.

(d) The trustee shall confirm the transfer to the seller, successor seller, and purchaser by written notice confirming the identity and value of the property transferred.

(e) It is a violation of this chapter for a seller to knowingly induce a purchaser to breach an existing contract that provides for prepaid or at-need services or merchandise.

(f) This section does not abrogate the requirements of IC 25-15-4 concerning contracting for or delivering at-need services and merchandise.

(g) It is a violation of this chapter for a seller to knowingly:

- (1) induce a purchaser who has the right to designate a successor seller under subsection (b) to:
 - (A) make a designation of a successor seller;
 - (B) breach an existing contract for prepaid or at-need services or merchandise; or
 - (C) enter into an at-need or prepaid contract calling for the delivery of similar services or merchandise; or
- (2) offer a monetary inducement or the exchange or substitution

of free or discounted services or merchandise in an effort to induce a purchaser to effect a change in the designation of a seller of prepaid or at-need services or merchandise.

(h) It is a violation of this chapter for a seller to provide free or discounted burial rights:

- (1) as an inducement or as consideration for the transfer of a contract; or
- (2) in an effort to induce a purchaser to effect a change in the designation of a seller of prepaid or at-need services or merchandise.



P.L.77-2000

[S.205. Approved March 15, 2000.]

AN ACT to amend the Indiana Code concerning natural and cultural resources.

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

SECTION 1. IC 14-22-11-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 10. (a) A nonresident of Indiana who is:

- (1) on active duty with a branch or department of the armed forces of the United States while stationed in Indiana; or
- (2) in the employment of:
 - (A) the United States Fish and Wildlife Service; or
 - (B) the conservation department of a state, territory, or possession of the United States; and
 in Indiana for the purpose of advising or consulting with the department;

may hunt or fish in Indiana after obtaining the proper resident license.

~~(b)~~ A nonresident **described in this subsection** must carry on the nonresident's person, when fishing or hunting, the license and a card or other evidence that identifies the nonresident as a person qualified to obtain a license under ~~this section~~. **this subsection.**

(b) A nonresident of Indiana who:

- (1) is less than eighteen (18) years of age; and**

(2) has a parent, grandparent, or legal guardian who is a resident of Indiana;
may hunt, fish, or trap in Indiana after obtaining the proper resident license.

P.L.78-2000

[S.212. Approved March 15, 2000.]

AN ACT to amend the Indiana Code concerning insurance.

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

SECTION 1. IC 5-10-8-7.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 7.7. (a) As used in this section, "health care plan" means:**

- (1) a self-insurance program established under section 7(b) of this chapter to provide group health coverage; or**
- (2) a contract entered into under section 7(c) of this chapter to provide health services through a prepaid health care delivery plan.**

(b) As used in this section, "health care provider" means a:

- (1) physician licensed under IC 25-22.5; or**
- (2) hospital licensed under IC 16-21;**

that provides health care services for surgical treatment of morbid obesity.

(c) As used in this section, "morbid obesity" means:

- (1) a weight of at least two (2) times the ideal weight for frame, age, height, and gender, as specified in the 1983 Metropolitan Life Insurance tables;**
- (2) a body mass index of at least thirty-five (35) kilograms per meter squared, with comorbidity or coexisting medical conditions such as hypertension, cardiopulmonary conditions, sleep apnea, or diabetes; or**
- (3) a body mass index of at least forty (40) kilograms per meter squared without comorbidity.**

For purposes of this subsection, body mass index is equal to weight in kilograms divided by height in meters squared.

(d) The state shall provide coverage for nonexperimental, surgical treatment by a health care provider of morbid obesity:

- (1) that has persisted for at least five (5) years; and**
- (2) for which nonsurgical treatment that is supervised by a physician has been unsuccessful for at least eighteen (18) consecutive months.**

SECTION 2. IC 27-8-14.1 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]:

Chapter 14.1. Coverage for Services Related to Morbid Obesity

Sec. 1. (a) As used in this chapter, "accident and sickness insurance policy" means an insurance policy that:

- (1) provides one (1) or more of the types of insurance described in IC 27-1-5-1, classes 1(b) and 2(a); and**
- (2) is issued on a group basis.**

(b) As used in this chapter, "accident and sickness insurance policy" does not include:

- (1) accident only;**
- (2) credit;**
- (3) dental;**
- (4) vision;**
- (5) Medicare supplement;**
- (6) long term care; or**
- (7) disability income;**

insurance.

Sec. 2. As used in this chapter, "health care provider" means a:

- (1) physician licensed under IC 25-22.5; or**
- (2) hospital licensed under IC 16-21;**

that provides health care services for surgical treatment of morbid obesity.

Sec. 3. As used in this chapter, "morbid obesity" means:

- (1) a weight of at least two (2) times the ideal weight for frame, age, height, and gender, as specified in the 1983 Metropolitan Life Insurance tables;**
- (2) a body mass index of at least thirty-five (35) kilograms per meter squared, with comorbidity or coexisting medical conditions such as hypertension, cardiopulmonary conditions, sleep apnea, or diabetes; or**
- (3) a body mass index of at least forty (40) kilograms per meter squared without comorbidity.**

For purposes of this section, body mass index is equal to weight in

kilograms divided by height in meters squared.

Sec. 4. An insurer that issues an accident and sickness insurance policy shall offer coverage for nonexperimental, surgical treatment by a health care provider of morbid obesity:

- (1) that has persisted for at least five (5) years; and
- (2) for which nonsurgical treatment that is supervised by a physician has been unsuccessful for at least eighteen (18) consecutive months.

SECTION 3. IC 27-13-7-14.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 14.5. (a) As used in this section, "health care provider" means a:**

- (1) physician licensed under IC 25-22.5; or
- (2) hospital licensed under IC 16-21;

that provides health care services for surgical treatment of morbid obesity.

(b) As used in this section, "morbid obesity" means:

- (1) a weight of at least two (2) times the ideal weight for frame, age, height, and gender as specified in the 1983 Metropolitan Life Insurance tables;
- (2) a body mass index of at least thirty-five (35) kilograms per meter squared with comorbidity or coexisting medical conditions such as hypertension, cardiopulmonary conditions, sleep apnea, or diabetes; or
- (3) a body mass index of at least forty (40) kilograms per meter squared without comorbidity.

For purposes of this subsection, body mass index equals weight in kilograms divided by height in meters squared.

(c) A health maintenance organization that provides coverage for basic health care services under a group contract shall offer coverage for nonexperimental, surgical treatment by a health care provider of morbid obesity:

- (1) that has persisted for at least five (5) years; and
- (2) for which nonsurgical treatment that is supervised by a physician has been unsuccessful for at least eighteen (18) consecutive months.

SECTION 4. [EFFECTIVE JULY 1, 2000] **(a) IC 5-10-8-7.7, as added by this act, applies to a self-insurance program or a contract to provide health services through a prepaid health care delivery plan that is established, delivered, entered into, or renewed after June 30, 2000.**

(b) IC 27-8-14.1, as added by this act, applies to policies issued, delivered, amended, or renewed after June 30, 2000.

(c) IC 27-13-7-14.5, as added by this act, applies to contracts entered into, delivered, amended, or renewed after June 30, 2000.

(d) This SECTION expires July 1, 2002.

P.L.79-2000

[S.218. Approved March 15, 2000.]

AN ACT to amend the Indiana Code concerning motor vehicles.

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

SECTION 1. IC 9-20-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 2. (a) The maximum width limitation, except width exclusive devices in accordance with 23 CFR 658.15 or United States Public Law 98-17, is eight (8) feet, six (6) inches.

(b) The width limits in subsection (a) do not apply to **the following:**

(1) Machinery or equipment used in utility construction or maintenance if the violation is the result of oversize tires.

(2) **A recreational vehicle with appurtenances that make the vehicle wider than the maximum width limitation described in subsection (a), if:**

(A) **the appurtenances do not extend beyond the width of the manufacturer installed exterior rear view mirrors of the recreational vehicle or the motor vehicle providing motive power; and**

(B) **the manufacturer installed exterior rear view mirrors extend to only the distance necessary to afford the required field of view for the vehicle.**

SECTION 2. IC 9-20-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 4. A single vehicle operated under the vehicle's own motive power may not exceed a length of forty (40) feet, except length exclusive devices in accordance with 23 CFR 658.13. However:

(1) a recreational vehicle may not exceed ~~forty (40)~~ **forty-five**

- (45) feet;
- (2) a vehicle used by railroad companies to transport steel rails in connection with a railroad construction, reconstruction, or maintenance project may not exceed forty (40) feet;
- (3) a bus is subject to IC 9-20-8-2; and
- (4) a single vehicle equipped with permanently installed specialized equipment used for lifting, reaching, pumping, or spraying is allowed an additional five (5) feet for overhang of the equipment. An allowable overhang may not be used to transport cargo.

SECTION 3. IC 9-20-5-4, AS AMENDED BY P.L.45-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 4. In addition to the highways established and designated as heavy duty highways under section 1 of this chapter, the following highways are designated as extra heavy duty highways:

- (1) Highway 41, from 129th Street in Hammond to Highway 312.
- (2) Highway 312, from Highway 41 to Highway 12.
- (3) Highway 912, from Michigan Avenue in East Chicago to Highway 12.
- (4) Highway 12, from Highway 912 to Clark Road in Gary.
- (5) Highway 20, from Clark Road in Gary to Highway 39.
- (6) Highway 12, from one-fourth (1/4) mile west of the Midwest Steel entrance to Highway 249.
- (7) Highway 249, from Highway 12 to Highway 20.
- (8) Highway 12, from one and one-half (1 1/2) miles east of the Bethlehem Steel entrance to Highway 149.
- (9) Highway 149, from Highway 12 to a point thirty-six one-hundredths (.36) of a mile south of Highway 20.
- (10) Highway 39, from Highway 20 to the Michigan state line.
- (11) Highway 20, from Highway 39 to Highway 2.
- (12) Highway 2, from Highway 20 to Highway 31.
- (13) Highway 31, from the Michigan state line to Highway 23.
- (14) Highway 23, from Highway 31 to Olive Street in South Bend.
- (15) Highway 35, from South Motts Parkway thirty-four hundredths (.34) of a mile southeast to the point where Highway 35 intersects with the overpass for Highway 20/Highway 212.
- (16) State Road 249 from U.S. 12 to the point where State Road 249 intersects with Nelson Drive at the Port of Indiana.
- (17) State Road 912 from the 15th Avenue and 169th Street**

interchange one and six hundredths (1.06) miles north to the U.S. 20 interchange.

(18) U.S. 20 from the State Road 912 interchange three and seventeen hundredths (3.17) miles east to U.S. 12.

SECTION 4. IC 9-20-6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 6. (a) The Indiana department of transportation or local unit authorized to issue permits under this chapter may issue permits for transporting:

(1) semitrailers or trailers designed to be used with semitrailers that exceed the width and length limitations imposed under this article; and

(2) recreational vehicles that exceed the maximum width limitation set forth in IC 9-20-3-2;

from the manufacturing facility to the person taking title to the vehicle, including any other destination in the marketing cycle.

(b) A permit issued under this section may designate the route to be traversed and may contain any other restrictions or conditions required for the safe movement of the vehicle.

(c) A permit issued to the manufacturer under this section must be applied for and reissued annually after the permit's initial issuance.

(d) A limit is not imposed on the number of movements generated by a manufacturer that is issued an annual permit under this section.



P.L.80-2000

[S.222. Approved March 15, 2000.]

AN ACT to amend the Indiana Code concerning local government.

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

SECTION 1. IC 36-8-10-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 21. (a) This section applies to any county

~~(1)~~ **with a population of more than fifty thousand (50,000); and**

~~(2)~~ **that has a jail commissary that sells merchandise to inmates.**

(b) A jail commissary fund is established, referred to in this section as "the fund". The fund is separate from the general fund, and money

in the fund does not revert to the general fund.

(c) The sheriff, or his designee, shall deposit all money from commissary sales into the fund, which he shall keep in a depository designated under IC 5-13-8.

(d) The sheriff, or his designee, at his discretion and without appropriation by the county fiscal body, may disburse money from the fund for:

- (1) merchandise for resale to inmates through the commissary;
- (2) expenses of operating the commissary, including, but not limited to, facilities and personnel;
- (3) special training in law enforcement for employees of the sheriff's department; ~~or~~
- (4) ~~any other purpose that benefits the sheriff's department but is not included in the department's regular appropriation: **equipment installed in the county jail;**~~
- (5) equipment, including vehicles and computers, computer software, communication devices, office machinery and furnishings, animals, animal training, holding and feeding equipment and supplies, or attire used by an employee of the sheriff's department in the course of the employee's official duties;**
- (6) an activity provided to maintain order and discipline among the inmates of the county jail;**
- (7) an activity or program of the sheriff's department intended to reduce or prevent occurrences of criminal activity, including the following:**
 - (A) Substance abuse.**
 - (B) Child abuse.**
 - (C) Domestic violence.**
 - (D) Drinking and driving.**
 - (E) Juvenile delinquency; or**
- (8) any other purpose that benefits the sheriff's department that is mutually agreed upon by the county fiscal body and the county sheriff.**

Money disbursed from the fund under this subsection must be supplemental or in addition to, rather than a replacement for, regular appropriations made to carry out the purposes listed in subdivisions (1) through (8).

(e) The sheriff shall maintain a record of the fund's receipts and disbursements. The state board of accounts shall prescribe the form for this record. The sheriff shall ~~annually~~ **semiannually** provide a copy of

this record of receipts and disbursements to the county fiscal body. **The semiannual reports are due on July 1 and December 31 of each year.**

SECTION 2. IC 36-8-10-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 22. (a) This section applies to any county ~~with a population of more than fifty thousand (50,000):~~ **that operates a county jail.**

(b) The sheriff shall hold in trust separately for each inmate any money received from that inmate or from another person on behalf of that inmate.

(c) If the inmate or his legal guardian requests a disbursement from the inmate's trust fund, the sheriff may make a disbursement for the personal benefit of the inmate, including but not limited to a disbursement to the county jail commissary.

(d) Upon discharge or release of an inmate from the county jail, the sheriff shall pay to that inmate or his legal guardian any balance remaining in his trust fund.

(e) If an inmate is found guilty of intentionally destroying or losing county property after a hearing conducted under IC 11-11-5-5, the sheriff may disburse from the inmate's trust fund or commissary account sums of money as reimbursement to the county for the inmate's intentional destruction or loss of county property, including but not limited to clothing, bedding, and other nondisposable items issued by the county to the inmate. Before disbursing money under this subsection, the sheriff shall adopt rules to administer this procedure.

(f) The sheriff shall maintain a record of each trust fund's receipts and disbursements. The state board of accounts shall prescribe the form for this record.

P.L.81-2000

[S.224. Approved March 15, 2000.]

AN ACT to amend the Indiana Code concerning education.

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

SECTION 1. IC 20-10.1-29-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2000]: **Sec. 0.5. This chapter applies only to public high schools.**

SECTION 2. IC 20-10.1-29-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 2. As used in this chapter, "student directory information" means the student's name, ~~and~~ address, **and telephone number, if the telephone number is a listed or published telephone number.**

SECTION 3. IC 20-10.1-29-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 3. ~~If a high school allows any person to have access to the high school campus or the high school's student directory information to make students aware of educational or occupational options offered by the person; the~~ **(a) Except as provided in subsection (b), a high school shall provide access to the high school campus or and the high school's student directory information on the same basis to official recruiting representatives of:**

- (1) the armed forces of the United States;
- (2) the Indiana Air National Guard; ~~and~~
- (3) the Indiana Army National Guard; **and**
- (4) the service academies of the armed forces of the United States;**

for the purpose of informing students of educational and career opportunities available in the armed forces of the United States, the Indiana Air National Guard, ~~and~~ the Indiana Army National Guard, **and the service academies of the armed forces of the United States.**

(b) If:

- (1) a high school student; or**
- (2) the parent, guardian, or custodian of a high school student;**

submits a signed, written request to a high school at the end of the student's sophomore year that indicates the student or the parent, guardian, or custodian of the student does not want the student's directory information to be provided to official recruiting representatives under subsection (a), the high school may not provide access to the student's directory information to an official recruiting representative. A high school shall notify students and the parents, guardians, or custodians of students of the provisions of this subsection.

(c) A high school may require an official recruiting representative to pay a fee:

- (1) for copying and mailing the high school's student directory information described under subsection (a); and
- (2) in an amount that is not more than the actual costs incurred by the high school.

SECTION 4. IC 20-10.1-29-4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 4. Information received by an official recruiting representative under section 3 of this chapter:**

- (1) may be used only to provide information to students concerning educational and career opportunities available in the armed forces of the United States, the Indiana Air National Guard, the Indiana Army National Guard, and the service academies of the armed forces of the United States; and
- (2) may not be released to a person who is not involved in recruiting high school students for the armed forces of the United States, the Indiana Air National Guard, the Indiana Army National Guard, and the service academies of the armed forces of the United States.

P.L.82-2000

[S.244. Approved March 15, 2000.]

AN ACT to amend the Indiana Code concerning professions and occupations.

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

SECTION 1. IC 23-1.5-1-9, AS AMENDED BY P.L.24-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 9. "Licensing authority" means the following:

- (1) In the case of an accounting professional, the Indiana state board of public accountancy.
- (2) In the case of an architectural professional, the board of registration for architects **and landscape architects**.
- (3) In the case of an engineering professional, the state board of registration for professional engineers.
- (4) In the case of an attorney, the Indiana supreme court.
- (5) In the case of a health care professional who is:
 - (A) a chiropractor, the board of chiropractic examiners;
 - (B) a dentist, the state board of dentistry;
 - (C) a nurse, the Indiana state board of nursing;
 - (D) an optometrist, the Indiana optometry board;
 - (E) a pharmacist, the Indiana board of pharmacy;
 - (F) a physical therapist, the Indiana physical therapy committee;
 - (G) a physician, the medical licensing board of Indiana;
 - (H) a podiatrist, the board of podiatric medicine;
 - (I) a psychologist, the state psychology board; or
 - (J) a speech-language pathologist, the speech-language pathology and audiology board.
- (6) In the case of a veterinarian, the Indiana board of veterinary medical examiners.
- (7) In the case of a land surveyor, the state board of registration for land surveyors.
- (8) In the case of a real estate professional, the Indiana real estate commission.

SECTION 2. IC 25-1-2-6, AS AMENDED BY P.L.24-1999,

SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 6. (a) As used in this section, "license" includes all occupational and professional licenses, registrations, permits, and certificates issued under the Indiana Code, and "licensee" includes all occupational and professional licensees, registrants, permittees, and certificate holders regulated under the Indiana Code.

(b) This section applies to the following entities that regulate occupations or professions under the Indiana Code:

- (1) Indiana board of accountancy.
- (2) Indiana grain buyers and warehouse licensing agency.
- (3) Indiana auctioneer commission.
- (4) Board of registration for architects **and landscape architects.**
- (5) State board of barber examiners.
- (6) State board of cosmetology examiners.
- (7) Medical licensing board of Indiana.
- (8) Secretary of state.
- (9) State board of dentistry.
- (10) State board of funeral and cemetery service.
- (11) Worker's compensation board of Indiana.
- (12) Indiana state board of health facility administrators.
- (13) Committee of hearing aid dealer examiners.
- (14) Indiana state board of nursing.
- (15) Indiana optometry board.
- (16) Indiana board of pharmacy.
- (17) Indiana plumbing commission.
- (18) Board of podiatric medicine.
- (19) Private detectives licensing board.
- (20) State board of registration for professional engineers.
- (21) Board of environmental health specialists.
- (22) State psychology board.
- (23) Indiana real estate commission.
- (24) Speech-language pathology and audiology board.
- (25) Department of natural resources.
- (26) State boxing commission.
- (27) Board of chiropractic examiners.
- (28) Mining board.
- (29) Indiana board of veterinary medical examiners.
- (30) State department of health.
- (31) Indiana physical therapy committee.
- (32) Respiratory care committee.

- (33) Occupational therapy committee.
- (34) Social worker, marriage and family therapist, and mental health counselor board.
- (35) Real estate appraiser licensure and certification board.
- (36) State board of registration for land surveyors.
- (37) Physician assistant committee.
- (38) Indiana dietitians certification board.
- (39) Indiana hypnotist committee.
- (40) Any other occupational or professional agency created after June 30, 1981.

(c) Notwithstanding any other law, the entities included in subsection (b) shall send a notice of the upcoming expiration of a license to each licensee at least sixty (60) days prior to the expiration of the license. The notice must inform the licensee of the need to renew and the requirement of payment of the renewal fee. If this notice of expiration is not sent by the entity, the licensee is not subject to a sanction for failure to renew if, once notice is received from the entity, the license is renewed within forty-five (45) days of the receipt of the notice.

SECTION 3. IC 25-1-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 3. (a) There is established the Indiana professional licensing agency. The licensing agency shall perform all administrative functions, duties, and responsibilities assigned by law or rule to the executive director, secretary, or other statutory administrator of the following:

- (1) Indiana board of accountancy (IC 25-2.1-2-1).
- (2) Board of registration for architects **and landscape architects** (IC 25-4-1-2).
- (3) Indiana auctioneer commission (IC 25-6.1-2-1).
- (4) State board of barber examiners (IC 25-7-5-1).
- (5) State boxing commission (IC 25-9-1).
- (6) State board of cosmetology examiners (IC 25-8-3-1).
- (7) State board of funeral and cemetery service (IC 25-15-9).
- (8) State board of registration for professional engineers (IC 25-31-1-3).
- (9) Indiana plumbing commission (IC 25-28.5-1-3).
- (10) Indiana real estate commission (IC 25-34.1).
- (11) Until July 1, 1996, Indiana State board of television and radio service examiners (IC 25-36-1-4).
- (12) Real estate appraiser licensure and certification board

(IC 25-34.1-8-1).

(13) Private detectives licensing board (IC 25-30-1-5.1).

(14) State board of registration for land surveyors
(IC 25-21.5-2-1).

(b) Nothing in this chapter may be construed to give the licensing agency policy making authority, which remains with each board.

SECTION 4. IC 25-1-7-1, AS AMENDED BY P.L.24-1999, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1. As used in this chapter:

"Board" means the appropriate agency listed in the definition of regulated occupation in this section.

"Director" refers to the director of the division of consumer protection.

"Division" refers to the division of consumer protection, office of the attorney general.

"Licensee" means a person who is:

(1) licensed, certified, or registered by a board listed in this section; and

(2) the subject of a complaint filed with the division.

"Person" means an individual, a partnership, a limited liability company, or a corporation.

"Regulated occupation" means an occupation in which a person is licensed, certified, or registered by one (1) of the following:

(1) Indiana board of accountancy (IC 25-2.1-2-1).

(2) Board of registration for architects **and landscape architects** (IC 25-4-1-2).

(3) Indiana auctioneer commission (IC 25-6.1-2-1).

(4) State board of barber examiners (IC 25-7-5-1).

(5) State boxing commission (IC 25-9-1).

(6) Board of chiropractic examiners (IC 25-10-1).

(7) State board of cosmetology examiners (IC 25-8-3-1).

(8) State board of dentistry (IC 25-14-1).

(9) State board of funeral and cemetery service (IC 25-15-9).

(10) State board of registration for professional engineers (IC 25-31-1-3).

(11) Indiana state board of health facility administrators (IC 25-19-1).

(12) Medical licensing board of Indiana (IC 25-22.5-2).

(13) Indiana state board of nursing (IC 25-23-1).

(14) Indiana optometry board (IC 25-24).

- (15) Indiana board of pharmacy (IC 25-26).
- (16) Indiana plumbing commission (IC 25-28.5-1-3).
- (17) Board of podiatric medicine (IC 25-29-2-1).
- (18) Board of environmental health specialists (IC 25-32-1).
- (19) State psychology board (IC 25-33).
- (20) Speech-language pathology and audiology board (IC 25-35.6-2).
- (21) Indiana real estate commission (IC 25-34.1-2).
- (22) Indiana board of veterinary medical examiners (IC 15-5-1.1).
- (23) Department of natural resources for purposes of licensing water well drillers under IC 25-39-3.
- (24) Respiratory care committee (IC 25-34.5).
- (25) Private detectives licensing board (IC 25-30-1-5.1).
- (26) Occupational therapy committee (IC 25-23.5).
- (27) Social worker, marriage and family therapist, and mental health counselor board (IC 25-23.6).
- (28) Real estate appraiser licensure and certification board (IC 25-34.1-8).
- (29) State board of registration for land surveyors (IC 25-21.5-2-1).
- (30) Physician assistant committee (IC 25-27.5).
- (31) Indiana athletic trainers board (IC 25-5.1-2-1).
- (32) Indiana dietitians certification board (IC 25-14.5-2-1).
- (33) Indiana hypnotist committee (IC 25-20.5-1-7).
- (34) Indiana physical therapy committee (IC 25-27).
- (35) Any other occupational or professional agency created after June 30, 1981.

SECTION 5. IC 25-1-8-1, AS AMENDED BY P.L.24-1999, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1. As used in this chapter, "board" means any of the following:

- (1) Indiana board of accountancy (IC 25-2.1-2-1).
- (2) Board of registration for architects **and landscape architects** (IC 25-4-1-2).
- (3) Indiana auctioneer commission (IC 25-6.1-2-1).
- (4) State board of barber examiners (IC 25-7-5-1).
- (5) State boxing commission (IC 25-9-1).
- (6) Board of chiropractic examiners (IC 25-10-1).
- (7) State board of cosmetology examiners (IC 25-8-3-1).
- (8) State board of dentistry (IC 25-14-1).

- (9) State board of funeral and cemetery service (IC 25-15).
- (10) State board of registration for professional engineers (IC 25-31-1-3).
- (11) Indiana state board of health facility administrators (IC 25-19-1).
- (12) Medical licensing board of Indiana (IC 25-22.5-2).
- (13) Mining board (IC 22-10-1.5-2).
- (14) Indiana state board of nursing (IC 25-23-1).
- (15) Indiana optometry board (IC 25-24).
- (16) Indiana board of pharmacy (IC 25-26).
- (17) Indiana plumbing commission (IC 25-28.5-1-3).
- (18) Board of environmental health specialists (IC 25-32-1).
- (19) State psychology board (IC 25-33).
- (20) Speech-language pathology and audiology board (IC 25-35.6-2).
- (21) Indiana real estate commission (IC 25-34.1-2-1).
- (22) Indiana board of veterinary medical examiners (IC 15-5-1.1-3).
- (23) Department of insurance (IC 27-1).
- (24) State police department (IC 10-1-1-1), for purposes of certifying polygraph examiners under IC 25-30-2.
- (25) Department of natural resources for purposes of licensing water well drillers under IC 25-39-3.
- (26) Private detectives licensing board (IC 25-30-1-5.1).
- (27) Occupational therapy committee (IC 25-23.5-2-1).
- (28) Social worker, marriage and family therapist, and mental health counselor board (IC 25-23.6-2-1).
- (29) Real estate appraiser licensure and certification board (IC 25-34.1-8).
- (30) State board of registration for land surveyors (IC 25-21.5-2-1).
- (31) Physician assistant committee (IC 25-27.5).
- (32) Indiana athletic trainers board (IC 25-5.1-2-1).
- (33) Board of podiatric medicine (IC 25-29-2-1).
- (34) Indiana dietitians certification board (IC 25-14.5-2-1).
- (35) Indiana physical therapy committee (IC 25-27).
- (36) Any other occupational or professional agency created after June 30, 1981.

SECTION 6. IC 25-1-11-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1. As used in this

chapter, "board" means any of the following:

- (1) Indiana board of accountancy (IC 25-2.1-2-1).
- (2) Board of registration for architects **and landscape architects** (IC 25-4-1-2).
- (3) Indiana auctioneer commission (IC 25-6.1-2).
- (4) State board of barber examiners (IC 25-7-5-1).
- (5) State boxing commission (IC 25-9-1).
- (6) State board of cosmetology examiners (IC 25-8-3-1).
- (7) State board of registration of land surveyors (IC 25-21.5-2-1).
- (8) State board of funeral and cemetery service (IC 25-15-9).
- (9) State board of registration for professional engineers (IC 25-31-1-3).
- (10) Indiana plumbing commission (IC 25-28.5-1-3).
- (11) Indiana real estate commission (IC 25-34.1-2-1).
- (12) Until July 1, 1996, Indiana State board of television and radio service examiners (IC 25-36-1-4).
- (13) Real estate appraiser licensure certification board (IC 25-34.1-8).
- (14) Private detectives licensing board (IC 25-30-1-5.1).

SECTION 7. IC 25-4-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 2. (a) There is hereby created and established a board of registration for architects **and landscape architects**, which shall consist of eight (8) members, who shall be appointed by the governor and who shall serve at the will and pleasure of the governor. All appointments shall be made for terms of three (3) years, ending on ~~the thirty-first (31st) day of~~ December **31**. In any case, each member shall serve for the term for which ~~he~~ **the member** shall have been appointed and until ~~his~~ **the member's** successor shall have been appointed and shall have qualified. Any vacancy which may occur in membership of the board for any cause shall be filled by appointment by the governor for the unexpired term. Each member of the board shall be entitled to receive as compensation for ~~his~~ **the member's** services a salary per diem for each and every day ~~he~~ **the member** may be engaged in attending the meetings or transacting the business of the board; in addition thereto each member shall be entitled to receive as reimbursement all traveling and other necessary expenses incurred in the performance of ~~his~~ **the member's** duties as a member of the board in accordance with travel policies and procedures established by the department of administration and the state budget agency.

(b) Each member of the board shall be a citizen of the United States of America **and** a resident of the state of Indiana. Five (5) of the members must be registered architects under this chapter and shall have had at least ten (10) years of active architectural practice preceding ~~his~~ **the member's** appointment.

(c) Two (2) members of the board ~~to represent the landscape architects; shall be residents of this state who must have had at least seven (7) years of active landscape architecture practice prior to appointment and who holds a degree from an American Society of Landscape Architects accredited school. After December 31, 1983; the landscape architecture member must be a certified landscape architect under IC 25-4-2~~ **must be registered landscape architects under this chapter and must have at least ten (10) years of active landscape architectural practice preceding the member's appointment.**

(d) One (1) member of the board, to represent the general public, shall be a resident of this state who has never been associated with the architecture or landscape architecture profession in any way other than as a consumer.

SECTION 8. IC 25-4-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 3. The board shall organize by the election of a chairman and vice chairman, each of whom shall serve for a term of one (1) year. The first meeting of the board shall be held within thirty (30) days after the members thereof shall have been appointed, on call of the chairman of the board. Thereafter, the board shall hold at least two (2) regular meetings each year and may hold such special meetings, as the board in its discretion may deem necessary or advisable. The time for holding the regular meetings, the method of calling special meetings and the manner of giving notice of all meetings shall be prescribed in the bylaws of the board. Five (5) members of the board shall constitute a quorum for the transaction of any and all business which may come before the board. Approval by a majority of all members of the board shall be required for action to be taken. The board shall adopt ~~an official seal~~ **which seals representing the different professions that** shall be affixed to all certificates of registration granted and issued, as provided in this chapter. Subject to the approval of the governor, the board is hereby authorized to make such bylaws and prescribe and promulgate such rules as may be deemed necessary in the performance of its duty. The board shall adopt rules establishing standards for the competent practice of architecture **and landscape architecture.** Suitable office quarters shall be provided

for the use of the board in the city of Indianapolis.

SECTION 9. IC 25-4-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 4. The board shall be entitled to the services of the attorney general in connection with any of the business of the board. The board shall have the power to administer oaths and take testimony and proofs concerning any matter which may come within its jurisdiction. The attorney general, the prosecuting attorney of any county, the ~~state~~ board of registration for architects **and landscape architects**, or any citizen of any county wherein any person, not herein exempted, shall engage in the practice of architecture **or landscape architecture**, as herein defined, without first having obtained a certificate of registration, or without first having renewed an expired certificate of registration, so to practice, may, in accordance with the provisions of the laws of this state governing injunctions, maintain an action, in the name of the state of Indiana, to enjoin such person from engaging in the practice of architecture **or landscape architecture**, as herein defined, until a certificate of registration is secured, or renewed, in accordance with the provisions of this chapter. Any person who has been so enjoined and who shall violate such injunction shall be punished for contempt of court. Such injunction shall not relieve such person so practicing architecture **or landscape architecture** without a certificate of registration, or without first having renewed an expired certificate of registration, from a criminal prosecution therefor, as is provided by this chapter, but such remedy by injunction shall be in addition to any remedy provided for herein for the criminal prosecution of such offender. In charging any person in a complaint for an injunction, or in an affidavit, information or indictment, with the violation of the provisions of this chapter, by practicing architecture **or landscape architecture** without a certificate of registration or without having renewed an expired certificate of registration, it shall be sufficient to charge that ~~he~~ **the person** did upon a certain day and in a certain county engage in the practice of architecture ~~he not~~ **or landscape architecture, without** having a certificate of registration or ~~he not~~ **without** having renewed an expired certificate of registration, to so practice, without averring any further or more particular facts concerning the same.

SECTION 10. IC 25-4-1-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 22. Except where the context clearly indicates a different meaning, the following terms, as used in this chapter, shall be construed to have the meaning hereinafter

indicated:

The term "board" shall be construed to mean the board of registration for architects **and landscape architects**.

SECTION 11. IC 25-4-1-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 25. The board shall keep a record open to public inspection at all reasonable times of its proceedings relating to the issuance, refusal, renewal, suspension or revocation of certificates of registration. This record shall also contain the name, place of business and residence, and the date and number of registration of each registered architect **and landscape architect** in this state.

SECTION 12. IC 25-4-1-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 28. This chapter shall be known and cited as "The Indiana Architectural **and Landscape Architectural** Act".

SECTION 13. IC 25-4-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1. (a) As used in this chapter, "board" means the board of registration for architects **and landscape architects** as established under IC 25-4-1-2.

(b) As used in this chapter, "landscape architecture" means the practice of professional services such as consultation, investigation, reconnaissance, research, planning, design, or responsible supervision to develop land areas for the dominant purpose of preserving, enhancing, or determining:

- (1) proper land uses;
- (2) natural land features;
- (3) ground cover and planting;
- (4) naturalistic and aesthetic values;
- (5) the settings and approaches to structures or other improvements;
- (6) the natural environment of a facility, an individual building, or other structure;
- (7) site specific natural surface and subsoil drainage systems;
- (8) landscape grading, swales, curbs, and walkways; and
- (9) any inherent problems of the land relating to erosion, overuse, blight, or other hazards.

"Landscape architecture" **The term** includes the location and arrangement of the proposed tangible objects and features that are incidental and necessary to accomplish the purposes of landscape architecture.

(c) As used in this chapter, "practitioner" means an individual registered as a landscape architect under this chapter.

~~(b)~~ **(d) Except as provided in subsection (b), this chapter does not authorize a practitioner to:**

- (1) engage in the design of mechanical lift stations, sewage treatment facilities, ~~sanitary sewers~~ **sanitary and combined sewers, storm water management projects, public, semi-public, and private utilities**, or other structures or facilities with separate and self-contained purposes, if the design work is ordinarily included in the practice of architecture or engineering;
- (2) engage in the design of highways or traffic control devices;**
- (3) engage in the scientific analysis of hazardous material contamination;**
- (4) engage in topographic mapping or the certification of land surveys or final land plats for official approval or recording;**
- ~~(3)~~ **(5) otherwise engage in the practice of architecture (as defined in IC 25-4-1);**
- ~~(4)~~ **(6) otherwise engage in the practice of professional engineering (as defined in IC 25-31); or**
- ~~(5)~~ **(7) engage in the practice of land surveying (as defined in IC 25-21.5); or**
- (8) engage in the practice of professional geology (as defined in IC 25-17.6).**

~~(c)~~ **(e) This chapter, except section ~~10(a)(1) and 10(a)(2)~~ of this chapter, does not apply to:**

- (1) the practice of landscape architecture by any person who acts under the supervision of a practitioner or by an employee of a person lawfully engaged in the practice of landscape architecture and who, in either event, does not assume responsible charge of design or supervision;
- (2) the practice of architecture or land planning and proper land usage by a duly registered professional architect or the doing of landscape architectural work by a registered architect ~~if the work is incidental to their practice~~ **or by an employee under the supervision of a registered architect;**
- (3) the practice of engineering or land planning and proper land usage by a duly registered professional engineer and the doing of landscape architectural work by a registered **professional** engineer or by an employee under supervision of a registered **professional** engineer; ~~if the work is incidental to their practice;~~

- (4) the practice of surveying or land planning and proper land usage by a registered land surveyor and the doing of landscape architectural work by a registered land surveyor or by an employee under supervision of a registered land surveyor; ~~if the work is incidental to their practice;~~
- (5) the practice of landscape architecture by employees of the United States government while engaged within this state in the practice of landscape architecture for the United States government;
- (6) the practice of planning as is customarily done by regional, **park,** or urban planners;
- (7) the practice of arborists, foresters, gardeners, turf managers, home builders, horticulturists, farmers, and other similar persons; ~~or~~
- (8) the practice of any nurseryman or general or landscape contractor, including design, planning, location, planting and arrangements of plantings or other ornamental features; ~~or~~
- (9) the practice of natural resource professionals, including biologists, geologists, or soil scientists.**

SECTION 14. IC 25-4-2-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 1.5. (a) The state and all of the state's political subdivisions shall:**

- (1) accept the stamp of a landscape architect when the landscape architect is submitting plans for approval within the scope of practice of landscape architecture; and**
- (2) allow the engagement of a landscape architect for work within the scope of practice of landscape architecture.**

(b) This section shall not be construed to restrict the practice of architects, professional engineers, or land surveyors in any way.

SECTION 15. IC 25-4-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 3. (a) To qualify for registration as a landscape architect, an applicant must:**

- (1) submit evidence that the applicant is an individual who is at least eighteen (18) years of age;
- (2) submit evidence that the applicant **has:**
 - (A) ~~has been~~ graduated from an ~~approved~~ **accredited** curriculum of landscape architecture presented by a college or school approved by the board; or
 - (B) ~~has attained before January 1, 2003,~~ at least eight (8)

- years of actual practical experience in landscape architectural work of a grade and character satisfactory to the board;
- (3) submit evidence that the applicant has paid the examination fee and the license fee set by the board;
- (4) provide an affidavit that indicates that the applicant does not have a conviction for:
- (A) an act that would constitute a ground for disciplinary action under IC 25-1-11; or
 - (B) a felony that has a direct bearing on his ability to practice competently; ~~and~~
- (5) pass the examination required by the board under section 4 of this chapter after meeting the requirements in subdivisions (1) through (4); ~~and~~
- (6) submit evidence that the applicant has at least three (3) years of diversified, actual, and practical experience in landscape architectural work of a grade and character satisfactory to the board.**

(b) The board shall issue a certificate of registration under this chapter to an applicant who meets the requirements in this section.

SECTION 16. IC 25-4-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 6. The board may issue a certificate of registration to a landscape architect licensed, certified, or registered in another state ~~without the examination required by section 4 of this chapter~~ if the applicant:

- (1) is an individual who is at least eighteen (18) years of age;
- (2) pays the fee established by the board; and
- (3) submits evidence satisfactory to the board that:
 - (A) the out-of-state applicant meets the requirements in ~~section 3(a)(2)~~ **section 3** of this chapter or its equivalent, as determined by the board;
 - (B) the applicant does not have a conviction for:
 - (i) an act that would constitute a ground for disciplinary action under IC 25-1-11; or
 - (ii) a felony that has a direct bearing on the applicant's ability to practice competently; and
 - (C) the applicant has met the same or equivalent examination requirements in effect in Indiana at the time the applicant was registered in the other jurisdiction.

SECTION 17. IC 25-4-2-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 10. (a) Any person

who:

- (1) renders or offers to render services to the public, if the words "landscape architecture" or "registered landscape architecture" are used to describe these services; ~~or~~
- (2) uses the title "registered landscape architect" or "landscape architect"; ~~or~~
- (3) engages in the practice of landscape architecture described in IC 25-4-2-1;**

without a **current** registration issued under this chapter commits a Class B infraction. **A person who affixes a registered landscape architect's seal to a plan, specification, or drawing that has not been prepared by a currently registered landscape architect or under the immediate supervision of a currently registered landscape architect commits a Class B infraction.**

(b) **Each day a violation described in this section continues to occur constitutes a separate offense.**

(c) The board may appear in its own name in the courts of the state and apply for injunctions to prevent violations of this chapter.

SECTION 18. IC 25-4-2-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 11. **(a) For purposes of this section, "firm" means a corporation, partnership, limited liability company, or sole proprietorship.**

(b) The practice of or an offer to practice landscape architecture by a firm may occur through an individual if the individual:

- (1) is in direct control of the landscape architecture practice;**
- (2) exercises direct supervision of all personnel who act on behalf of the firm in landscape architecture professional and technical matters; and**
- (3) holds a current registration under this chapter.**

No ~~partnership firm or corporation~~ doing business in Indiana may use the term or title "landscape architect", "landscape architecture", or "landscape architectural" or advertise any title or description tending to convey the impression that the ~~partnership firm or corporation~~ employs a practitioner unless the ~~partnership firm or corporation~~ employs a practitioner. The name of a practitioner employed by the ~~partnership firm or corporation~~ must appear whenever the name of the firm ~~corporation or partnership~~ is used in the professional practice of landscape architecture. Any plans, sheets of designs, or specifications prepared by the personnel of the ~~partnership firm or corporation~~ must carry the signature and seal of the practitioner who is responsible for supervising the landscape architecture work.

SECTION 19. IC 25-4-2-7 IS REPEALED [EFFECTIVE JULY 1, 2000].

SECTION 20. [EFFECTIVE JULY 1, 2000] **The rules adopted by the board of registration for architects before July 1, 2000, are considered, after June 30, 2000, to be rules of the board of registration for architects and landscape architects.**

P.L.83-2000

[S.322. Approved March 15, 2000.]

AN ACT to amend the Indiana Code concerning professions and occupations.

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

SECTION 1. IC 25-23-1-19.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 19.5. (a) The board shall establish a program under which advanced practice nurses who meet the requirements established by the board are authorized to prescribe legend drugs, including controlled substances (as defined in IC 35-48-1).

(b) The authority granted by the board under this section:

- (1) ~~shall be granted initially to an advanced practice nurse for two~~ **years expires on October 31 of the odd-numbered year following the year the authority was granted or renewed**; and
- (2) is subject to renewal indefinitely for successive periods of two (2) years.

(c) The rules adopted under section 7 of this chapter concerning the authority of advanced practice nurses to prescribe legend drugs must do the following:

- (1) Require an advanced practice nurse or a prospective advanced practice nurse who seeks the authority to submit an application to the board.
- (2) Require, as a prerequisite to the initial granting of the authority, the successful completion by the applicant of a graduate level course in pharmacology providing at least two (2) semester hours of academic credit.

(3) Require, as a condition of the renewal of the authority, the completion by the advanced practice nurse ~~during the two (2)~~ years immediately preceding the renewal of the authority of at least thirty (30) hours of continuing education; at least (8) hours of which must be in pharmacology of the continuing education requirements set out in section 19.7 of this chapter.

SECTION 2. IC 25-23-1-19.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 19.7. (a) This subsection applies to an applicant for renewal who has never received a renewal of prescriptive authority under section 19.5 of this chapter and whose prescriptive authority has never lapsed. If the applicant was initially granted prescriptive authority:**

(1) less than twelve (12) months before the expiration date of the prescriptive authority, no continuing education is required; or

(2) at least twelve (12) months before the expiration date of the prescriptive authority, the applicant shall submit proof to the board that the applicant has successfully completed at least fifteen (15) contact hours of continuing education. The hours must:

(A) be completed after the prescriptive authority was granted and before the expiration of the prescriptive authority;

(B) include at least four (4) contact hours of pharmacology; and

(C) be approved by a nationally approved sponsor of continuing education for nurses, approved by the board, and listed by the health professions bureau as approved hours.

(b) This subsection applies to an applicant for renewal of prescriptive authority under section 19.5 of this chapter who is not described in subsection (a). The applicant shall submit proof to the board that the applicant has successfully completed at least thirty (30) contact hours of continuing education. The hours must:

(1) be completed within the two (2) years immediately preceding the renewal;

(2) include at least eight (8) contact hours of pharmacology; and

(3) be approved by a nationally approved sponsor of continuing education for nurses, be approved by the board,

and be listed by the health professions bureau as approved hours.

P.L.84-2000

[S.331. Approved March 15, 2000.]

AN ACT to amend the Indiana Code concerning natural and cultural resources.

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

SECTION 1. IC 14-22-11-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 8. (a) This section does not apply to the following:

- (1) A person who is:
 - (A) a resident of Indiana; and
 - (B) at least sixty-five (65) years of age.
- (2) A person who is less than seventeen (17) years of age.
- (3) A person who is legally blind.
- (4) A person who is a resident patient of a state mental institution.
- (5) A person who is:
 - (A) a resident of a health facility (as defined in IC 16-18-2-167) licensed in Indiana; and
 - (B) taking part in a supervised activity of the health facility.
- (6) **A person who:**
 - (A) is a resident of Indiana;**
 - (B) has a developmental disability; and**
 - (C) is fishing with a person who holds a fishing license or is exempt from holding a fishing license under subdivision (1).**
- (7) A resident of Indiana who fishes during a free sport fishing day designated under IC 14-22-18.

(b) Every person must have a fishing license in the person's possession when fishing in:

- (1) waters containing state owned fish;
- (2) waters of the state; or
- (3) boundary waters of the state.

(c) Every person must have a valid trout-salmon stamp in the person's possession to legally fish for or take trout or salmon in:

- (1) waters containing state owned fish;
- (2) waters of the state; or
- (3) boundary waters of the state.

P.L.85-2000

[S.373. Approved March 15, 2000.]

AN ACT to amend the Indiana Code concerning education finance.

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

SECTION 1. IC 21-9-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1. The following are the purposes of this article:

- (1) To encourage elementary and secondary students in Indiana to achieve high standards of performance and establish lifelong habits of fiscal responsibility through savings.
- (2) To encourage education and the means of education.
- (3) To encourage attendance at higher education institutions.
- (4) To provide families additional means of striving for higher education through the ~~save Indiana program~~ and the Indiana family college savings programs that may be established under this article.
- (5) To help provide the benefits of higher education to the people of Indiana.
- (6) To promote the economic development of the state by creating opportunities for a more highly educated workforce.
- (7) To increase employment opportunities in Indiana.
- (8) To encourage a working partnership among the people of Indiana, including Indiana families, and elementary and secondary schools, higher education institutions, financial institutions, and state government in furthering a greater rate of savings and greater participation in higher education.

SECTION 2. IC 21-9-2-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 11. "Education savings

program" means an education savings program established under IC 21-9-3. ~~including:~~

- ~~(1) the save Indiana program; and~~
- ~~(2) the family college savings programs.~~

SECTION 3. IC 21-9-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 3. The authority may establish the following education savings programs:

- ~~(1) The save Indiana program.~~
- ~~(2) (1)~~ The family college savings programs, including the following:
 - (A) The trust program.
 - (B) The account program.
- ~~(3) (2)~~ Other savings programs and services consistent with the purposes and objectives of this article.

SECTION 4. IC 21-9-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1. The following are established:

- (1) The general operating fund.
- ~~(2) The save Indiana fund.~~
- ~~(3) (2)~~ The endowment fund.
- ~~(4) (3)~~ The trust fund and, in the trust fund, the following:
 - (A) The administrative account.
 - (B) The program account.

SECTION 5. IC 21-9-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 2. The authority shall establish and implement investment policies in accordance with IC 5-13 for the following:

- (1) Money in the general operating fund.
- (2) Money in the administrative account.
- (3) Any other money of the authority other than money in:
 - ~~(A) the save Indiana fund;~~
 - ~~(B) (A)~~ the endowment fund; and
 - ~~(C) (B)~~ the program account.

SECTION 6. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2000]: IC 21-9-2-20; IC 21-9-2-21; IC 21-9-5-3; IC 21-9-6.

SECTION 7. P.L.165-1996, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 30, 2000]: SECTION 3. (a) The treasurer of state, the board for depositories, the Indiana commission for higher education, and the state student assistance commission shall cooperate and provide to the Indiana education savings authority the following:

- (1) Clerical and professional staff and related support.
 - (2) Office space and services.
 - (3) Reasonable financial support for the development of rules, policies, programs, and guidelines, including authority operations and travel.
- (b) This SECTION expires July 1, ~~2000~~: **2001**.

P.L.86-2000

[S.393. Approved March 15, 2000.]

AN ACT to amend the Indiana Code concerning education finance.

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

SECTION 1. IC 21-2-11-6.5, AS ADDED BY P.L.77-1999, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000 (RETROACTIVE)]: Sec. 6.5. (a) All money appropriated from the general fund for any of the purposes described in IC 21-2-18-3 shall be transferred from the general fund to the school technology fund established under IC 21-2-18.

(b) **As used in this subsection, "base year" means January 1, 1998, through June 30, 1999, or any subsequent universal service program year for which a school corporation initially makes application to the program.** Any money saved by a school corporation as a result of universal service discounts provided to the school corporation under the federal Telecommunications Act of 1996 must be transferred to the school technology fund. **For purposes of this section, the amount of money saved by a school corporation as a result of universal service discounts during the base year and any subsequent universal service program year is equal to:**

- (1) the sum of all reimbursements in the form of cash or discounts received or eligible to be received under the universal service program during the base year; minus**
- (2) discounts from expenditures made from the debt service and capital projects funds during the base year for one time costs such as new construction or remodeling projects.**

SECTION 2. IC 21-2-18-4, AS ADDED BY P.L.77-1999,

SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000 (RETROACTIVE)]: Sec. 4. Before February 15 of **2001 and each year thereafter**, each school corporation shall file a report with the superintendent of public instruction's special assistant for technology. The report must be prepared in the form prescribed by the special assistant for technology and must include a list of expenditures made by the school corporation during the preceding calendar year from the school corporation's:

- (1) school technology fund for purposes described in this chapter;
- (2) capital projects fund for purposes described in IC 21-2-15-4(d); and
- (3) debt service fund for purposes of providing financing for any equipment or facilities used to provide educational technology programs.

Before April 1 of **2001 and each year thereafter**, the special assistant for technology shall compile the information contained in the reports required by this section and present that compilation to the educational technology council.

SECTION 3. **An emergency is declared for this act.**

P.L.87-2000

[S.401. Approved March 15, 2000.]

AN ACT to amend the Indiana Code concerning professions and occupations.

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

SECTION 1. IC 25-5.1-1-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 0.5. This article does not apply to an individual who meets the following conditions:**

- (1) Is not a resident of Indiana.**
- (2) Is employed for the primary purpose of providing athletic training services for an athletic or sports organization in another jurisdiction.**
- (3) Provides athletic training services in Indiana related to the**

training or participation of a specific event but does not provide athletic training services in Indiana for more than thirty-five (35) consecutive days.

SECTION 2. IC 25-5.1-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1. (a) To qualify for a license under this article, an individual must satisfy the following requirements:

- (1) Satisfactorily complete an application for licensure in accordance with the rules adopted by the board.
- (2) Pay the application fees, examination fees, and licensure fees established by the board.
- ~~(3) Be a resident of or employed in Indiana for at least ninety (90) consecutive days before the date of application.~~
- ~~(4)~~ (3) Not have been convicted of a crime that has a direct bearing on the applicant's ability to practice competently as determined by the board.
- ~~(5)~~ (4) Not have had disciplinary action taken against the applicant or the applicant's license by the board or by the licensing agency of another state or jurisdiction by reason of the applicant's inability to safely practice athletic training with those reasons for discipline still being valid as determined by the board.
- ~~(6)~~ (5) Show to the satisfaction of the board that the applicant has received at least a baccalaureate degree from an institution of higher education that meets the academic standards for athletic trainers established by NATA and described in subsection (b).
- ~~(7)~~ (6) Except to the extent that section 6 of this chapter applies, successfully pass the qualifying examination adopted by the board as described in IC 25-5.1-2-6(8).

(b) The minimum academic standards for athletic trainers licensed under this article as required under subsection ~~(a)(6)~~ (a)(5) include the satisfactory completion of an academic program that includes at least the following accredited courses:

- (1) Human anatomy.
- (2) Human physiology.
- (3) Physiology of exercise.
- (4) Kinesiology.
- (5) Personal health.
- (6) Basic athletic training.
- (7) Advanced athletic training.
- (8) Clinical experience as prescribed by the board.

(9) Therapeutic modalities.

(10) Rehabilitation.

(c) The examination described in subsection ~~(a)(7)~~ **(a)(6)** shall be offered two (2) times during each calendar year.

SECTION 3. IC 25-5.1-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 3. The board may refuse to issue a license to an applicant for licensure under section 1 of this chapter if:

(1) the board determines during the application process that the applicant committed an act that would have subjected the applicant to disciplinary sanction under section ~~†(a)(5)~~ **1(a)(4)** of this chapter if the applicant had been:

(A) certified before July 1, 1998; or

(B) licensed after June 30, 1998;

in Indiana when the act occurred; or

(2) the applicant has had a:

(A) certificate revoked under IC 25-1-1.1 before July 1, 1998;

or

(B) license revoked under IC 25-1-1.1 after June 30, 1998.

SECTION 4. IC 25-5.1-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 6. If an individual who applies for a license under this article meets any of the following conditions, the individual may be exempted from the examination requirement under section ~~†(a)(7)~~ **1(a)(6)** of this chapter by action of the board:

(1) The individual is licensed to practice athletic training in another state if the other state's standards for licensure are at least equal to the standards for licensure in Indiana.

(2) The individual is certified by NATA and is otherwise qualified for licensure under this article.

(3) The individual is certified by an organization recognized by the National Commission on Competency Assurance and is otherwise qualified for licensure under this article.

SECTION 5. IC 25-5.1-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 7. This article does not prohibit the following:

(1) The practice of an occupation or profession for which an individual is licensed, certified, or registered in Indiana by a state agency.

(2) The practice of a health care occupation or profession by an

individual who is practicing within the individual's education and experience.

(3) The performance of a first aid procedure incidental to an individual's employment or volunteer duties.

(4) The performance of an emergency first aid procedure by an individual.

(5) A student, an intern, or a trainee from pursuing a course of study in athletic training from an accredited institution of higher education if:

(A) the activities are performed under qualified supervision and constitute a part of the individual's supervised course of study; and

(B) the individual uses a title that contains the word "intern", "student", or "trainee".

(6) The use of the title "student athletic trainer" by a student enrolled in a high school or an institution of higher education while assisting an athletic trainer during athletic activities of the high school or institution of higher education.

SECTION 6. IC 25-5.1-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1. An individual may not:

(1) practice as an athletic trainer; or

(2) use:

(A) the title "licensed athletic trainer", "athletic trainer", "licensed trainer", or "athletic training";

(B) the abbreviations "AT", "ATC", "AT,C", "LAT", "ATC/L"; or

(C) other words, abbreviations, or insignia;

to indicate or imply that the individual is an athletic trainer; unless the individual is licensed under this article.

SECTION 7. IC 25-5.1-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 2. An individual who **knowingly** violates or causes to be violated section 1 of this chapter commits a Class ~~C~~ **infraction**. **B misdemeanor.**

P.L.88-2000

[S.418. Approved March 15, 2000.]

AN ACT to amend the Indiana Code concerning insurance.

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

SECTION 1. IC 27-1-13-3.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000 (RETROACTIVE)]:
Sec. 3.5. **(a) Except as provided by subsection (b),** goodwill, trade names, and other like intangible assets attributable to any investment in a subsidiary shall be admitted as assets except:

- (1) to the extent that the aggregate amount thereof exceeds ten percent (10%) of the capital and surplus of the insurer as reported in its latest annual report filed with the commissioner;
- (2) to the extent that any such asset is not being amortized ratably over a period of ten (10) years or less from the date of acquisition; and
- (3) in determining the financial condition or solvency of an insurer under IC 27-9.

(b) The commissioner may increase the ten percent (10%) limitation in subsection (a)(1) to an amount not to exceed twenty percent (20%) of the capital and surplus of the insurer as reported in its latest annual statement filed with the commissioner if:

- (1) the assets of the insurer include good will, trade names, and other like intangible assets that are attributable to the acquisition after December 31, 1998, of an insurance company or health maintenance organization authorized to do business under the laws of any state; and**
- (2) as of the date of the initial request for an increase in the ten percent (10%) limitation in subsection (a)(1) the total adjusted capital of the insurer is at least four hundred percent (400%) of the authorized control level risk based capital of the insurer as reported in the latest annual report filed with the commissioner.**

(c) The commissioner may retain experts to assist with a request made under subsection (b). The insurer shall pay all costs for the experts.

SECTION 2. [EFFECTIVE JANUARY 1, 2000 (RETROACTIVE)]
**IC 27-1-13-3.5, as amended by this act, applies to financial
statements filed by an insurer after December 31, 1999.**

SECTION 3. **An emergency is declared for this act.**

P.L.89-2000

[S.419. Approved March 15, 2000.]

AN ACT to amend the Indiana Code concerning state and local
administration.

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

SECTION 1. IC 5-1-1-1 IS AMENDED TO READ AS FOLLOWS
[EFFECTIVE UPON PASSAGE]: Sec. 1. (a) "Leasing body" means a
not-for-profit corporation, limited purpose corporation, or authority that
has leased land and a building or buildings to an entity named in
subsection (b) other than another leasing body.

(b) All bonds, notes, evidences of indebtedness, leases, or other
written obligations issued by or in the name of any state agency,
county, township, city, incorporated town, school corporation, state
educational institution, state supported institution of higher learning,
political subdivision, joint agency created under IC 8-1-2.2, leasing
body, or any other political, municipal, public or quasi-public
corporation, or in the name of any special assessment or taxing district
or in the name of any commission, authority, or authorized body of any
such entity and any pledge, **dedication or designation of revenues**,
conveyance, or mortgage securing these bonds, notes, evidences of
indebtedness, leases, or other written obligations are hereby legalized
and declared valid if these bonds, notes, evidences of indebtedness,
leases, or other written obligations have been executed before March
15, ~~1998~~ **2000**. All proceedings had and actions taken under which the
bonds, notes, evidences of indebtedness, leases, or other written
obligations were issued or the pledge, **dedication or designation of
revenues**, conveyance, or mortgage was granted, are hereby fully
legalized and declared valid.

(c) All contracts for the purchase of electric power and energy or

utility capacity or service entered into by a joint agency created under IC 8-1-2.2 and its members used for the purpose of securing payment of principal and interest on bonds, notes, evidences of indebtedness, leases, or other written obligations issued by or in the name of such joint agency are hereby legalized and declared valid if entered into before March 15, ~~1998~~ **2000**. All proceedings held and actions taken under which contracts for the purchase of electric power and energy or utility capacity or service were executed or entered into are hereby fully legalized and declared valid.

(d) All interlocal cooperation agreements entered into by political subdivisions or governmental entities under IC 36-1-7 are hereby legalized and declared valid if entered into before March 15, 2000. All proceedings held and actions taken under which interlocal cooperation agreements were executed or entered into are hereby fully legalized and validated.

SECTION 2. An emergency is declared for this act.

P.L.90-2000

[S.433. Approved March 15, 2000.]

AN ACT to amend the Indiana Code concerning corrections.

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

SECTION 1. IC 11-8-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. "Committed" means placed under the custody or made a ward of the department of correction. **The term includes a minimum security assignment, including an assignment to a community transition program under IC 11-10-11.5.**

SECTION 2. IC 11-10-8-9 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 9. Before the department may assign an offender to a work release program, the department must notify any victim of the offender's crime of the right to submit a written statement to:**

(1) a sentencing court in accordance with IC 11-10-11.5-4.5,

if the offender is under consideration for assignment to a community transition program; and

(2) the department, if the offender is under consideration for assignment to any other work release program.

If the name or address of a victim of the offender's crime changes after the offender is sentenced for the offense, and the offender's sentence may result in the offender's assignment to the work release program, the victim is responsible for notifying the department of the name or address change.

SECTION 3. IC 11-10-11.5-1, AS ADDED BY P.L.273-1999, SECTION 208, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. This chapter applies to a person:

- (1) who is committed to the department under IC 35-50 for one (1) or more felonies other than murder; **and**
- (2) against whom a court imposed a sentence of at least two (2) years.**

SECTION 4. IC 11-10-11.5-2, AS ADDED BY P.L.273-1999, SECTION 208, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. Not earlier than sixty (60) days and not later than forty-five (45) days before an offender's community transition program commencement date, the department shall give ~~the~~ **written notice of the offender's eligibility for a community transition program to each court that sentenced the offender** ~~written notice of the offender's eligibility for a community transition program.~~ **for a period of imprisonment that the offender is still actively serving.** The notice must include the following information:

- (1) The person's name.
- (2) A description of the offenses for which the person was committed to the department.
- (3) The person's expected release date.
- (4) The person's community transition program commencement date.
- (5) The person's current security and credit time classifications.
- (6) A report summarizing the person's conduct while committed to the department.
- (7) Any other information that the department determines would assist the sentencing court in determining whether to issue an order under IC 35-38-1-24 or IC 35-38-1-25.

However, if the offender's expected release date changes as the result of the gain or loss of credit time after notice is sent to each court under this section, the offender may become ineligible for a community transition program. The department shall notify each court whenever the department finds that an offender is ineligible for the program because of a change in the person's credit time.

SECTION 5. IC 11-10-11.5-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3.5. An offender who resides outside Indiana is not eligible for a community transition program.**

SECTION 6. IC 11-10-11.5-3.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3.6. If an offender who is eligible to be assigned to a community transition program is sentenced by more than one (1) court, the offender must be considered for assignment to a community transition program located in the community where the court that imposed the sentence with the longest period of imprisonment that the offender is actively serving is located. However, before an offender may be assigned to a community transition program, each court that sentenced the offender to a period of imprisonment that the offender is actively serving must agree to the assignment.**

SECTION 7. IC 11-10-11.5-4, AS ADDED BY P.L.273-1999, SECTION 208, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 4. The department shall send a copy of ~~the~~ a notice required under section 2 of this chapter to the prosecuting attorney where the person's case originated. The notice under this section need not include the information described in section 2(6) through 2(7) and section 3 of this chapter. However, upon request to the sentencing court, the court receiving the notice under section 2 of this chapter shall permit the prosecuting attorney to review and obtain copies of any information included in the notice.**

SECTION 8. IC 11-10-11.5-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 4.5. (a) Before the department may assign an offender to a minimum security classification and place the offender in a community transition program, the department shall notify the offender and any victim of the offender's crime of the right to submit a written statement regarding the offender's assignment to the community transition**

program to each court that sentenced the offender to a period of imprisonment that the offender is actively serving. If the name or address of a victim of the offender's crime changes after the offender is sentenced for the offense, and the offender's sentence may result in the offender's assignment to the community transition program, the victim is responsible for notifying the department of the name or address change.

(b) An offender or a victim of the offender's crime who wishes to submit a written statement under this section must submit the statement to each court not later than ten (10) working days after receiving notice from the department under subsection (a).

SECTION 9. IC 11-10-11.5-5, AS ADDED BY P.L.273-1999, SECTION 208, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) This section applies to a person if the most serious offense for which the person is committed is a Class C or **Class D** felony.

(b) Unless the department has received:

- (1) an order under IC 35-38-1-24; or
- (2) a warrant order of detainer seeking the transfer of the person to a county or another jurisdiction;

the department shall assign a person to a **minimum security classification and place the person in a** community transition program beginning with the person's community transition program commencement date until the person completes the person's fixed term of imprisonment, less the credit time the person has earned with respect to the term.

SECTION 10. IC 11-10-11.5-6, AS ADDED BY P.L.273-1999, SECTION 208, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) This section applies to a person if the sentencing court orders the department to assign a person to a community transition program under IC 35-38-1-25.

(b) The department shall assign a **minimum security classification and place the person to in** a community transition program beginning with the date specified in the sentencing court's order until the person completes the person's fixed term of imprisonment, less the credit time the person has earned with respect to the term.

SECTION 11. IC 11-10-11.5-8, AS ADDED BY P.L.273-1999, SECTION 208, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. **(a)** The person receiving the offender under section 7 of this chapter shall transfer the offender to

the intake person for the community transition program.

(b) As soon as is practicable after receiving the offender, the community transition program shall:

- (1) provide the offender with a reasonable opportunity to review the rules and conditions applicable to the offender's assignment in the program; and**
- (2) obtain the offender's written agreement to abide by all of the rules and conditions of the program.**

(c) A community transition program shall provide an offender with a written document stating that any offender who is assigned to a community transition program participates in the program on a voluntary basis. An offender must agree in writing that the offender's participation in the program is voluntary, before the offender may be allowed to participate in the program.

SECTION 12. IC 11-10-11.5-9, AS ADDED BY P.L.273-1999, SECTION 208, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. A person assigned to a community transition program shall remain in the assignment until the person completes the person's fixed term of imprisonment, less the credit time the person has earned with respect to the term, unless the ~~sentencing court orders~~ **community transition program causes** the person ~~to be~~ returned to the ~~jurisdiction of the department under IC 35-38-1-26.~~ **for reassignment from the community transition program to a program or facility administered by the department under section 11.5(b) of this chapter.** IC 11-10-12-2 does not apply to a person who completes an assignment in a community transition program.

SECTION 13. IC 11-10-11.5-11.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11.5. **(a) An offender is entitled to refuse to be placed into a community transition program. However, if the offender does not refuse the placement and agrees in writing to voluntarily participate, as required by section 8 of this chapter, the offender is considered to participate in the community transition program on a voluntary basis.**

(b) The community transition program, upon a finding of probable cause that the offender has failed to comply with a rule or condition under section 11 of this chapter, shall cause the department to:

- (1) immediately return the offender to the department; and**
- (2) reassign the offender to a program or facility administered**

by the department.

SECTION 14. IC 11-10-11.5-12, AS ADDED BY P.L.273-1999, SECTION 208, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) Any earnings of a person employed while in a community transition program, less payroll deductions required by law and court ordered deductions for satisfaction of a judgment against that person, ~~shall~~ **may** be collected by the community transition program **at the discretion of the community transition program**. Unless otherwise ordered by the sentencing court, **if the community transition program collects the earnings under this section**, the remaining earnings shall be distributed in the following order:

- (1) To pay state and federal income taxes and Social Security deductions not otherwise withheld.
- (2) To pay the cost of membership in an employee organization.
- (3) Not less than twenty-five percent (25%) of the person's gross earnings, if that amount of the gross is available after the above deductions, to be given to that person or retained for the person, with accrued interest, until the person's release or discharge.
- (4) To pay for the person's room and board or electronic monitoring provided by the community transition program.
- (5) To pay transportation costs to and from work and other work related incidental expenses incurred by the community transition program.
- (6) To pay court ordered costs, fines, or restitution.

(b) After the amounts prescribed in subsection (a) are deducted, the remaining amount may be used to:

- (1) when directed by the person or ordered by the court, pay for the support of the person's dependents (if the person's dependents are receiving welfare assistance, the appropriate office of family and children or welfare department in another state shall be notified of such disbursements); and
- (2) with the consent of the person, pay to the person's victims or others any unpaid obligations of that person.

(c) Any remaining amount shall be given to the person or retained for the person according to subsection (a)(3).

(d) The collection of room and board or electronic monitoring costs under subsection (a)(4) may be waived.

SECTION 15. IC 11-10-11.5-14 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS

[EFFECTIVE UPON PASSAGE]: **Sec. 14. (a) A person assigned to a community transition program is responsible for the person's medical care while in the program. However, if the sentencing court finds that the person is unable to pay for necessary medical care, the department shall provide for the necessary medical care.**

(b) The department, without a hearing, may transfer a person assigned to a community transition program to a facility operated by the department or another place determined by the department for medical treatment that is not covered by payments made by the offender or by insurance covering the offender.

(c) Whenever the department makes a transfer under subsection (b), the department may:

- (1) reassign the offender from the community transition program to another facility or program; or**
- (2) continue the offender's assignment to the community transition program and return the offender to the community transition program upon the completion of the medical treatment.**

(d) An offender who is transferred for medical treatment under subsection (b) continues to earn credit time during the period of the offender's medical treatment.

(e) The department shall adopt rules under IC 4-22-2 to implement this section.

SECTION 16. IC 11-12-10-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 2.5. A sentencing court may transfer an offender to a community transition program located where the offender resides if the receiving community transition program agrees to accept the transfer. In addition, if more than one (1) court sentenced the offender, all of the courts that sentenced the offender to a period of imprisonment that the offender was actively serving at the time of the offender's assignment to the community transition program must agree to the transfer in writing.**

SECTION 17. IC 35-38-1-24, AS ADDED BY P.L.273-1999, SECTION 210, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 24. (a) This section applies to a person if the most serious offense for which the person is committed is a Class C or Class D felony.**

(b) Not later than forty-five (45) days after receiving a notice under IC 11-10-11.5-2, the sentencing court may order the department of

correction to retain control over a person until the person completes the person's fixed term of imprisonment, less the credit time the person has earned with respect to the term, if the court makes specific findings that support a determination:

- (1) that placement of the person in a community transition program:
 - (A) places the person in danger of serious bodily injury or death; or
 - (B) represents a substantial threat to the safety of others; or
- (2) of other good cause.

If the court issues an order under this section, the department of correction may not assign a person to a community transition program.

(c) The court may make a determination under this section without a hearing. **The court shall consider any written statement presented to the court by a victim of the offender's crime or by an offender under IC 11-10-11.5-4.5. The court in its discretion may consider statements submitted by a victim after the time allowed for the submission of statements under IC 11-10-11.5-4.5.**

(d) The court shall make written findings for a determination under this section, whether or not a hearing was held.

(e) Not later than five (5) days after making a determination under this section, the court shall send a copy of the order to the:

- (1) prosecuting attorney where the person's case originated; and
- (2) department of correction.

SECTION 18. IC 35-38-1-25, AS ADDED BY P.L.273-1999, SECTION 211, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 25. (a) This section applies to a person if the most serious offense for which the person is committed is a Class A or Class B felony.

(b) A sentencing court may sentence a person or modify the sentence of a person to assign the person to a community transition program for any period that begins after the person's community transition program commencement date (as defined in IC 11-8-1-5.6) and ends when the person completes the person's fixed term of imprisonment, less the credit time the person has earned with respect to the term, if the court makes specific findings of fact that support a determination that it is in the best interests of justice to make the assignment. The order may include any other condition that the court could impose if the court had placed the person on probation under IC 35-38-2 or in a community corrections program under IC 35-38-2.6.

(c) The court may make a determination under this section without a hearing. **The court shall consider any written statement presented to the court by a victim of the offender's crime or by an offender under IC 11-10-11.5-4.5. The court in its discretion may consider statements submitted by a victim after the time allowed for the submission of statements under IC 11-10-11.5-4.5.**

(d) The court shall make written findings for a determination under this section, whether or not a hearing was held.

(e) Not later than five (5) days after making a determination under this section, the court shall send a copy of the order to the:

- (1) prosecuting attorney where the person's case originated; and
- (2) department of correction.

SECTION 19. IC 35-50-1-7 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE UPON PASSAGE]: **Sec. 7. Whenever a court commits a person to the department of correction as a result of a conviction, the court shall notify the department of correction of the last known name and address of any victim of the offense for which the person is convicted.**

SECTION 20. IC 35-50-6-1, AS AMENDED BY P.L.273-1999, SECTION 215, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 1. (a) Except as provided in subsection (d), when a person imprisoned for a felony completes his fixed term of imprisonment, less the credit time he has earned with respect to that term, he shall be:**

- (1) **discharged; if the person is assigned to a community transition program and the committing court does not recommend to the parole board that the person be released on parole for not more than twenty-four (24) months, as determined by the parole board;**
- (2) **released on parole for a period not exceeding twenty-four (24) months, as determined by the parole board; discharged upon a finding by the committing court that the person was assigned to a community transition program and may be discharged without the requirement of parole; or**
- (3) released to the committing court if his sentence included a period of probation.

(b) Except as provided in subsection (d), a person released on parole remains on parole from the date of his release until his fixed term expires, unless his parole is revoked or he is discharged from that term

by the parole board. In any event, if his parole is not revoked, the parole board shall discharge him after the period set under subsection (a) or the expiration of the person's fixed term, whichever is shorter.

(c) A person whose parole is revoked shall be imprisoned for the remainder of his fixed term. However, he shall again be released on parole when he completes that remainder, less the credit time he has earned since the revocation. The parole board may reinstate him on parole at any time after the revocation.

(d) When an offender (as defined in IC 5-2-12-4) completes the offender's fixed term of imprisonment, less credit time earned with respect to that term, the offender shall be placed on parole for not more than ten (10) years.

SECTION 21. IC 35-50-6-3.3, AS AMENDED BY P.L.183-1999, SECTION 3, AND AS AMENDED BY P.L.243-1999, SECTION 3, IS AMENDED AND CORRECTED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3.3. (a) In addition to any credit time a person earns under subsection (b) or section 3 of this chapter, ~~if~~ a person earns credit time if the person:

- (1) is in credit Class I;
- (2) has demonstrated a pattern consistent with rehabilitation; and
- (3) successfully completes requirements to obtain one (1) of the following:

(A) A general educational development (GED) diploma under IC 20-10.1-12.1, if the person has not previously obtained a high school diploma.

(B) A high school diploma.

(C) An associate's degree from an approved institution of higher learning (as defined under IC 20-12-21-3).

(D) A bachelor's degree from an approved institution of higher learning (as defined under IC 20-12-21-3).

(b) In addition to any credit time that a person earns under subsection (a) or section 3 of this chapter, a person may earn credit time if, while confined by the department of correction, the person:

- (1) is in credit Class I;
- (2) demonstrates a pattern consistent with rehabilitation; and
- (3) successfully completes requirements to obtain at least one (1) of the following:

(A) A certificate of completion of a vocational education program approved by the department of correction.

(B) A certificate of completion of a substance abuse program

approved by the department of correction.

(c) The department of correction shall establish admissions criteria and other requirements for programs available for earning credit time under subsection (b). A person may not earn credit time under both subsection (a) and subsection (b) for the same program of study.

(d) The amount of credit time a person may earn under this section is the following:

- (1) Six (6) months for completion of a state of Indiana general educational development (GED) diploma under IC 20-10.1-12.1.
- (2) One (1) year for graduation from high school.
- (3) One (1) year for completion of an associate's degree.
- (4) Two (2) years for completion of a bachelor's degree.
- (5) Not more than a total of six (6) months of credit, as determined by the department of correction, for the completion of one (1) or more vocational education programs approved by the department of correction.
- (6) Not more than a total of six (6) months of credit, as determined by the department of correction, for the completion of one (1) or more substance abuse programs approved by the department of correction.

However, a person who does not have a substance abuse problem that qualifies the person to earn credit in a substance abuse program may earn not more than a total of twelve (12) months of credit, as determined by the department of correction, for the completion of one (1) or more vocational education programs approved by the department of correction. If a person earns more than six (6) months of credit for the completion of one (1) or more vocational education programs, the person is ineligible to earn credit for the completion of one (1) or more substance abuse programs.

(e) Credit time earned by a person under this section is subtracted from the release date that would otherwise apply to the person after subtracting all other credit time earned by the person.

(f) A person does not earn credit time under subsection (a) unless the person completes at least a portion of the degree requirements after June 30, 1993.

(g) A person does not earn credit time under subsection (b) unless the person completes at least a portion of the program requirements after June 30, 1999.

(h) Subsection (e) applies only to a person who completes at least a portion of the degree or program requirements under subsection (a)

or (b) after June 30, 1999. Credit time earned by a person under subsection (a) for a diploma or degree completed before July 1, 1999, shall be subtracted from the period of imprisonment imposed on the person by the sentencing court.

(i) The maximum amount of credit time a person may earn under this section is the lesser of:

- (1) four (4) years; or
- (2) one-third (1/3) of the person's total applicable credit time.

(j) The amount of credit time earned under this section is reduced to the extent that application of the credit time would otherwise result in:

- (1) postconviction release (as defined in IC 35-40-4-6); or**
- (2) assignment of the person to a community transition program;**

in less than forty-five (45) days after the person earns the credit time.

SECTION 22. IC 35-50-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) A person imprisoned for a crime or imprisoned awaiting trial or sentencing is initially assigned to Class I.

(b) A person may be reassigned to Class II or Class III if he violates **any of the following:**

- (1) A rule of the department of correction. ~~or: if he is not under the custody of the department;~~**
- (2) A rule of the penal facility in which he is imprisoned.**
- (3) A rule or condition of a community transition program.**

However, a violation of a condition of parole or probation may not be the basis for reassignment. Before a person may be reassigned to a lower credit time class, he must be granted a hearing to determine his guilt or innocence and, if found guilty, whether reassignment is an appropriate disciplinary action for the violation. The person may waive his right to the hearing.

(c) In connection with the hearing granted under subsection (b), the person is entitled to:

- (1) have not less than twenty-four (24) hours advance written notice of the date, time, and place of the hearing, and of the alleged misconduct and the rule the misconduct is alleged to have violated;
- (2) have reasonable time to prepare for the hearing;
- (3) have an impartial decisionmaker;

- (4) appear and speak in his own behalf;
- (5) call witnesses and present evidence;
- (6) confront and cross-examine each witness, unless the hearing authority finds that to do so would subject a witness to a substantial risk of harm;
- (7) have the assistance of a lay advocate (the department may require that the advocate be an employee of, or a fellow prisoner in, the same facility or program);
- (8) have a written statement of the findings of fact, the evidence relied upon, and the reasons for the action taken;
- (9) have immunity if his testimony or any evidence derived from his testimony is used in any criminal proceedings; and
- (10) have his record expunged of any reference to the charge if he is found not guilty or if a finding of guilt is later overturned.

Any finding of guilt must be supported by a preponderance of the evidence presented at the hearing.

(d) A person may be reassigned from Class III to Class I or Class II or from Class II to Class I. A person's assignment to Class III or Class II shall be reviewed at least once every six (6) months to determine if he should be reassigned to a higher credit time class.

SECTION 23. IC 35-50-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) A person may, with respect to the same transaction, be deprived of any part of the credit time he has earned for any of the following:

- (1) A violation of one (1) or more rules of the department of correction.
- (2) If the person is not committed to the department, a violation of one (1) or more rules of the penal facility in which the person is imprisoned.
- (3) **A violation of one (1) or more rules or conditions of a community transition program.**
- (4) If a court determines that a civil claim brought by the person in a state or an administrative court is frivolous, unreasonable, or groundless.

However, the violation of a condition of parole or probation may not be the basis for deprivation. Whenever a person is deprived of credit time, he may also be reassigned to Class II or Class III.

(b) Before a person may be deprived of earned credit time, the person must be granted a hearing to determine his guilt or innocence and, if found guilty, whether deprivation of earned credit time is an

appropriate disciplinary action for the violation. In connection with the hearing, the person is entitled to the procedural safeguards listed in section 4(c) of this chapter. The person may waive his right to the hearing.

(c) Any part of the credit time of which a person is deprived under this section may be restored.

SECTION 24. [EFFECTIVE UPON PASSAGE] IC 11-10-11.5, as amended by this act, applies only to persons whose community transition program commencement date (as defined in IC 11-10-11.5-6, as amended by this act), occurs after August 31, 1999.

SECTION 25. THE FOLLOWING ARE REPEALED [EFFECTIVE UPON PASSAGE]: IC 11-10-11.5-13; IC 35-38-1-26.

SECTION 26. An emergency is declared for this act.

P.L.91-2000

[S.469. Approved March 15, 2000.]

AN ACT to amend the Indiana Code concerning insurance.

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

SECTION 1. IC 27-13-34-24 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 24. (a) A limited service health maintenance organization that provides dental care services shall appoint a dental director who has an unlimited license to practice dentistry under IC 25-14 or an equivalent license issued by another state.**

(b) The dental director appointed under subsection (a) is responsible for oversight of treatment policies, protocols, quality assurance activities, credentialing of participating providers, and utilization management decisions of the limited service health maintenance organization.

(c) A limited service health maintenance organization that provides dental care services shall contract with or employ at least one (1) individual who holds an unlimited license to practice

dentistry under IC 25-14 or an equivalent license issued by another state to do the following:

(1) Develop, in consultation with a group of appropriate providers, the limited service health maintenance organization's treatment policies, protocols, and quality assurance activities.

(2) Respond when a treating provider requests in writing that a dentist reconsider an adverse utilization review decision.

(d) A limited service health maintenance organization that provides dental care services that receives a written request for reconsideration of an adverse utilization review decision from a treating provider shall:

(1) review the decision as expeditiously as possible; and

(2) provide a response to the treating provider not more than ten (10) business days after receiving the request.

(e) A limited service health maintenance organization that provides dental care services shall provide participating providers with an opportunity to comment on the following:

(1) Treatment policies.

(2) Protocols.

(3) Quality assurance activities.

(4) Credentialing policies and procedures.

(5) Utilization management policies and procedures.

SECTION 2. IC 27-13-34-26 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 26. (a) The department shall maintain records concerning complaints filed against a limited service health maintenance organization that provides dental care services.**

(b) The department shall classify complaints described in subsection (a) in categories according to the National Association of Insurance Commissioners standardized complaint report procedures.

(c) The department shall classify the disposition of complaints in each category by:

(1) number of complaints for which corrective action is considered necessary by the department; and

(2) number of complaints classified by National Association of Insurance Commissioners disposition codes.

(d) The department shall make information specified in this section available to the public in a form that does not identify any

specific individual.

(e) A limited service health maintenance organization that provides dental care services may not take any retaliatory action, including cancellation or refusal to renew a participating provider contract, individual contract, or group contract, solely because a participating provider, enrollee, or individual or group contract holder files a complaint against the limited service health maintenance organization.

SECTION 3. IC 27-13-37-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 4. ~~(a) Beginning July 1, 1999, each~~ **Each** health maintenance organization shall offer to each purchaser of a group contract or individual contract a point-of-service product to the extent permitted by IC 27-13-13-8.

(b) Beginning July 1, 2001, a limited service health maintenance organization that provides dental care services shall offer to each purchaser of a group contract or individual contract:

- (1) a point-of-service product to the extent permitted by IC 27-13-34-10(a)(6);**
- (2) a preferred provider plan (as defined in IC 27-8-11-1); or**
- (3) a policy of accident and sickness insurance (as defined in IC 27-8-5-1);**

that provides dental care services.

P.L.92-2000

[S.470. Approved March 15, 2000.]

AN ACT to amend the Indiana Code concerning utilities and transportation.

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

SECTION 1. IC 8-2.1-24-18, AS AMENDED BY P.L.98-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 18. (a) 49 CFR Parts 382, 385 through 387, 390 through 393, and 395 through 398 is incorporated into Indiana law by reference, and, except as provided in subsections (d), (e), (f), and (g), must be complied with by an interstate and intrastate motor carrier of

persons or property throughout Indiana. Intrastate motor carriers subject to compliance reviews under 49 CFR 385 shall be selected according to criteria determined by the superintendent which must include but is not limited to factors such as previous history of violations found in roadside compliance checks and other recorded violations. However, the provisions of 49 CFR 395 that regulate the hours of service of drivers, including requirements for the maintenance of logs, do not apply to a driver of a truck that is registered by the bureau of motor vehicles and used as a farm truck under IC 9-18, or a vehicle operated in intrastate construction or construction related service, or the restoration of public utility services interrupted by an emergency. Except for a carrier or a guest operator operating a motor vehicle as a farm vehicle in connection with agricultural pursuits usual and normal to the user's farming operation or for personal purposes, but not operated either part time or incidentally in the conduct of a commercial enterprise, as provided in subsection (i), intrastate motor carriers not operating under authority issued by the United States Department of Transportation shall comply with the requirements of 49 CFR 390.21(b)(3) by registering with the department of state revenue as an intrastate motor carrier and displaying the certification number issued by the department of state revenue preceded by the letters "IN". **Except as provided in subsection (i)**, all other requirements of 49 CFR 390.21 apply equally to interstate and intrastate motor carriers.

(b) 49 CFR 107 subpart (F) and subpart (G), 171 through 173, 177 through 178, and 180, is incorporated into Indiana law by reference, and every:

- (1) private carrier;
- (2) common carrier;
- (3) contract carrier;
- (4) motor carrier of property, intrastate;
- (5) hazardous material shipper; and
- (6) carrier otherwise exempt under section 3 of this chapter;

must comply with the federal regulations incorporated under this subsection, whether engaged in interstate or intrastate commerce.

(c) Notwithstanding subsection (b), nonspecification bulk and nonbulk packaging, including cargo tank motor vehicles, may be used only if all the following conditions exist:

- (1) The maximum capacity of the vehicle is less than three thousand five hundred (3,500) gallons.
- (2) The shipment of goods is limited to intrastate commerce.

- (3) The vehicle is used only for the purpose of transporting fuel oil, kerosene, diesel fuel, gasoline, gasohol, or any combination of these substances.

All additional federal standards for the safe transportation of hazardous materials apply until July 1, 2000. After June 30, 2000, the maintenance, inspection, and marking requirements of 49 CFR 173.8 and Part 180 are applicable. In accordance with federal hazardous materials regulations, new or additional nonspecification cargo tank motor vehicles may not be placed in service under this subsection after June 30, 1998.

(d) For the purpose of enforcing this section, only:

- (1) a state police officer or state police motor carrier inspector who:

(A) has successfully completed a course of instruction approved by the Federal Highway Administration; and

(B) maintains an acceptable competency level as established by the state police department; or

- (2) an employee of a law enforcement agency who:

(A) before January 1, 1991, has successfully completed a course of instruction approved by the Federal Highway Administration; and

(B) maintains an acceptable competency level as established by the state police department;

on the enforcement of 49 CFR, may, upon demand, inspect the books, accounts, papers, records, memoranda, equipment, and premises of any carrier, including a carrier exempt under section 3 of this chapter.

(e) A person hired before September 1, 1985, who operates a motor vehicle intrastate incidentally to the person's normal employment duties and who is not employed as a chauffeur (as defined in IC 9-13-2-21(a)) is exempt from 49 CFR 391 as incorporated by this section.

(f) Notwithstanding any provision of 49 CFR 391 to the contrary, a person at least eighteen (18) years of age and less than twenty-one (21) years of age may be employed as a driver to operate a commercial motor vehicle intrastate. However, a person employed under this subsection is not exempt from any other provision of 49 CFR 391.

(g) Notwithstanding subsection (b), the following provisions of 49 CFR do not apply to private carriers of property operated only in intrastate commerce or any carriers of property operated only in intrastate commerce while employed in construction or construction related service:

(1) Subpart 391.41 as it applies to physical qualifications of drivers hired before September 1, 1985.

(2) Subpart 391.41(b)(3) as it applies to physical qualifications of a driver who has held a commercial driver's license (as defined in IC 9-13-2-29) before April 1, 1992, diagnosed as an insulin dependent diabetic, if the driver has filed an annual statement with the bureau of motor vehicles completed and signed by a certified endocrinologist attesting that the driver:

(A) is otherwise physically qualified under Subpart 391.41 to operate a motor vehicle and is not likely to suffer any diminution in driving ability due to the driver's diabetic condition;

(B) is free of severe hypoglycemia or hypoglycemia unawareness and has had less than one (1) documented, symptomatic hypoglycemic reaction per month;

(C) has demonstrated the ability and willingness to properly monitor and manage the driver's diabetic condition;

(D) has agreed to and, to the endocrinologist's knowledge, has carried a source of rapidly absorbable glucose at all times while driving a motor vehicle, has self monitored blood glucose levels one (1) hour before driving and at least once every four (4) hours while driving or on duty before driving using a portable glucose monitoring device equipped with a computerized memory; and

(E) has submitted the blood glucose logs from the monitoring device to the endocrinologist at the time of the annual medical examination.

A copy of the blood glucose logs shall be filed along with the annual statement from the endocrinologist with the bureau of motor vehicles for review by the driver licensing advisory committee established under IC 9-14-4. A copy of the annual statement shall also be provided to the driver's employer for retention in the driver's qualification file, and a copy shall be retained and held by the driver while driving for presentation to an authorized federal, state, or local law enforcement official.

(3) Subpart 396.9 as it applies to inspection of vehicles carrying or loaded with a perishable product. However, this exemption does not prohibit a law enforcement officer from stopping these vehicles for an obvious violation that poses an imminent threat of an accident or incident. The exemption is not intended to include

refrigerated vehicles loaded with perishables when the refrigeration unit is working.

(4) Subpart 396.11 as it applies to driver vehicle inspection reports.

(5) Subpart 396.13 as it applies to driver inspection.

(h) For purposes of 49 CFR 395.1(l), "planting and harvesting season" refers to the period between January 1 and December 31 of each year. The intrastate commerce exception set forth in 49 CFR 395.1(l), as it applies to the transportation of agricultural commodities and farm supplies, is restricted to single vehicles and cargo tank motor vehicles with a capacity of not more than five thousand four hundred (5,400) gallons.

(i) The requirements of 49 CFR 390.21 do not apply to an intrastate carrier or a guest operator not engaged in interstate commerce and operating a motor vehicle as a farm vehicle in connection with agricultural pursuits usual and normal to the user's farming operation or for personal purposes unless the vehicle is operated either part time or incidentally in the conduct of a commercial enterprise.

(j) The superintendent of state police may adopt rules under IC 4-22-2 governing the parts and subparts of 49 CFR incorporated by reference under this section.

P.L.93-2000

[S.489. Approved March 15, 2000.]

AN ACT to amend the Indiana Code concerning education finance and to make an appropriation.

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

SECTION 1. IC 21-3-1.6-1.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1.1. As used in this chapter:

(a) "School corporation" means any local public school corporation established under Indiana law.

(b) "School year" means a year beginning July 1 and ending the next

succeeding June 30.

(c) "State distribution" due a school corporation means the amount of state funds to be distributed to a school corporation in any calendar year under this chapter.

(d) "Average daily membership" or "ADM" of a school corporation means the number of eligible pupils enrolled in the school corporation or in a transferee corporation on a day to be fixed annually by the Indiana state board of education. Such day shall fall within the first thirty (30) days of the school term. If, however, extreme patterns of student in-migration, illness, natural disaster, or other unusual conditions in a particular school corporation's enrollment on the particular day thus fixed, cause the enrollment to be unrepresentative of the school corporation's enrollment throughout a school year, the Indiana state board of education may designate another day for determining the school corporation's enrollment. The Indiana state board of education shall monitor changes, which occur after the fall count, in the number of students enrolled in programs for children with disabilities and shall, before December 2 of that same year, make an adjusted count of students enrolled in programs for children with disabilities. The superintendent of public instruction shall certify the adjusted count to the budget committee before February 5 of the following year. In determining the ADM, each kindergarten pupil shall be counted as one-half (1/2) pupil. Where a school corporation commences kindergarten in a school year, the ADM of the current and prior calendar years shall be adjusted to reflect the enrollment of the kindergarten pupils. **In determining the ADM, each pupil enrolled in a public school and a nonpublic school is to be counted on a full-time equivalency basis as provided in section 1.2 of this chapter.** "Current ADM" of a school corporation used in computing its state distribution in a calendar year means the ADM of the school year ending in the calendar year. "ADM of the previous year" or "ADM of the prior year" of a school corporation used in computing its state distribution in a calendar year means the ADM of the school corporation for the school year ending in the preceding calendar year.

(e) "Additional count" of a school corporation, or comparable language, means the aggregate of the additional counts of the school corporation for certain pupils as set out in section 3 of this chapter and as determined at the times for calculating ADM. "Current additional count" means the additional count of the school corporation for the school year ending in the calendar year. "Prior year additional count"

of a school corporation used in computing its state distribution in a calendar year means the additional count of the school corporation for the school year ending in the preceding calendar year.

(f) "Adjusted assessed valuation" of any school corporation used in computing state distribution for a calendar year means the assessed valuation in the school corporation, adjusted as provided in IC 6-1.1-34. The amount of the valuation shall also be adjusted downward by the state board of tax commissioners to the extent it consists of real or personal property owned by a railroad or other corporation under the jurisdiction of a federal court under the federal bankruptcy laws (11 U.S.C. 101 et seq.) if as a result of the corporation being involved in a bankruptcy proceeding the corporation is delinquent in payment of its Indiana real and personal property taxes for the year to which the valuation applies. If the railroad or other corporation in some subsequent calendar year makes payment of the delinquent taxes, then the state superintendent of public instruction shall prescribe adjustments in the distributions of state funds pursuant to this chapter as are thereafter to become due to a school corporation affected by the delinquency as will ensure that the school corporation will not have been unjustly enriched under the provisions of P.L.382-1987(ss).

(g) "General fund" means a school corporation fund established under IC 21-2-11-2.

(h) "Teacher" means every person who is required as a condition of corporation by a school corporation to hold a teacher's license issued or recognized by the state, except substitutes and any person paid entirely from federal funds.

(i) "Teacher ratio" of a school corporation used in computing state distribution in any calendar year means the ratio assigned to the school corporation pursuant to section 2 of this chapter.

(j) "Eligible pupil" means a pupil enrolled in a school corporation if:

- (1) the school corporation has the responsibility to educate the pupil in its public schools without the payment of tuition;
- (2) subject to subdivision (5), the school corporation has the responsibility to pay transfer tuition under IC 20-8.1-6.1, because the pupil is transferred for education to another school corporation (the "transferee corporation");
- (3) the pupil is enrolled in a school corporation as a transfer student under IC 20-8.1-6.1-3 or entitled to be counted for ADM

or additional count purposes as a resident of the school corporation when attending its schools under any other applicable law or regulation;

(4) the state is responsible for the payment of transfer tuition to the school corporation for the pupil under IC 20-8.1-6.1; or

(5) all of the following apply:

(A) The school corporation is a transferee corporation.

(B) The pupil does not qualify as a qualified pupil in the transferee corporation under subdivision (3) or (4).

(C) The transferee corporation's attendance area includes a state licensed private or public health care facility, child care facility, or foster family home where the pupil was placed:

(i) by or with the consent of the division of family and children;

(ii) by a court order; or

(iii) by a child placing agency licensed by the division of family and children; or

(iv) by a parent or guardian under IC 20-8.1-6.1-5.

(k) "General fund budget" of a school corporation means the amount of the budget approved for a given year by the state board of tax commissioners and used by the state board of tax commissioners in certifying a school corporation's general fund tax levy and tax rate for the school corporation's general fund as provided for in IC 21-2-11.

SECTION 2. IC 21-3-1.6-1.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000 (RETROACTIVE)]: **Sec. 1.2. (a) This section applies only to a pupil who:**

(1) is enrolled in a public school and a nonpublic school;

(2) has legal settlement in a school corporation; and

(3) receives instructional services from the school corporation.

(b) A pupil described in subsection (a) may be considered in a school corporation's ADM count on a full-time equivalency basis as determined under subsection (c).

(c) For purposes of this section, full-time equivalency is calculated as follows:

STEP ONE: Determine the result of:

(A) the number of days instructional services will be provided to the pupil, not to exceed one hundred eighty (180); divided by

(B) one hundred eighty (180).

STEP TWO: Determine the result of:

(A) the pupil's public school instructional time (as defined in IC 20-10.1-2-1(b)), rounded to the nearest one-hundredth (0.01); divided by

(B) the actual public school regular instructional day (as defined in IC 20-10.1-2-1(b)), rounded to the nearest one-hundredth (0.01).

STEP THREE: Determine the result of:

(A) the STEP ONE result; multiplied by

(B) the STEP TWO result.

STEP FOUR: Determine the lesser of one (1) or the result of:

(A) the STEP THREE result; multiplied by

(B) one and five hundredths (1.05).

(d) If the computation for a pupil under subsection (c) results in a fraction, the fraction must be rounded to the nearest one-hundredth (0.01).

SECTION 3. IC 21-3-1.7-9, AS AMENDED BY P.L.273-1999, SECTION 138, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000 (RETROACTIVE)]: Sec. 9. (a) Subject to the amount appropriated by the general assembly for tuition support, the amount that a school corporation is entitled to receive in tuition support for a year is the amount determined in section 8 of this chapter.

(b) If the total amount to be distributed as tuition support under this chapter, for enrollment adjustment grants under section 9.5 of this chapter, for at-risk programs under section 9.7 of this chapter, for academic honors diploma awards under section 9.8 of this chapter, and as special and vocational education grants under IC 21-3-1.8-3 or IC 21-3-10 for a particular year, exceeds:

(1) two billion nine hundred thirty-nine million two hundred thousand dollars (\$2,939,200,000) in 1999;

(2) three billion one hundred ~~forty-four~~ **ninety** million ~~five hundred thousand~~ dollars (~~\$3,144,500,000~~) **(\$3,190,000,000)** in 2000; and

(3) three billion three hundred twenty-one million dollars (\$3,321,000,000) in 2001;

the amount to be distributed for tuition support under this chapter to each school corporation during each of the last six (6) months of the year shall be reduced by the same dollar amount per ADM (as adjusted by IC 21-3-1.6-1.1) so that the total reductions equal the amount of the excess.

SECTION 4. IC 21-3-1.7-9.5, AS AMENDED BY P.L.273-1999,

SECTION 139, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000 (RETROACTIVE)]: Sec. 9.5. (a) In addition to the distribution under sections 8, 9.7, and 9.8 of this chapter, a school corporation is eligible for an enrollment adjustment grant if the school corporation's:

- (1) current ADM minus the school corporation's previous year ADM is at least two hundred fifty (250); or
- (2) current ADM divided by the school corporation's previous year ADM is at least one and five-hundredths (1.05).

(b) The amount of the enrollment adjustment grant is the amount determined in STEP THREE of the following formula:

STEP ONE: Determine the school corporation's target revenue per ADM divided by three (3).

STEP TWO: Determine the result of the school corporation's current ADM minus the school corporation's previous year ADM.

STEP THREE: Multiply the STEP ONE result by the STEP TWO result.

(c) Notwithstanding any other provision, for purposes of computing the amount of a grant under this section, "ADM" does not include an eligible pupil who is described in IC 21-3-1.6-1.2(a).

SECTION 5. [EFFECTIVE JANUARY 1, 2000 (RETROACTIVE)]

(a) Not later than May 1, 2000, each school corporation shall do the following:

- (1) Adjust its September 1999 ADM count to take into consideration the provisions of IC 21-3-1.6-1.2, as added by this act, regardless of the effective date of IC 21-2-1.6-1.2.**
- (2) Report the adjusted ADM count to the department of education.**

(b) The provisions of IC 21-3-1.6-1.2, as added by this act, do not apply to:

- (1) the 2000 calculation of tuition support for school corporations under IC 21-3-1.7-8;**
- (2) ADM for 2000 when determining at risk distributions under IC 21-3-1.7-9.7;**
- (3) the 2000 calculation of primetime under IC 21-1-30; or**
- (4) ADM for 2000 when determining adjusted ADM under IC 21-3-1.7-6.6.**

(c) This SECTION expires July 1, 2002.

SECTION 6. [EFFECTIVE JANUARY 1, 2001] **(a) Notwithstanding IC 21-3-1.6-1.2, as added by this act, and IC 21-3-1.7, the tuition support determined under IC 21-3-1.7-8 for**

a school corporation shall be reduced as follows:

(1) For 2001, the previous year's revenue determined without regard to IC 21-3-1.6-1.2, as added by this act, shall be reduced by an amount determined under the following STEPS:

STEP ONE: Determine the difference between:

(A) the school corporation's average daily membership count for 2000, without regard to IC 21-3-1.6-1.2, as added by this act; minus

(B) the school corporation's average daily membership count for 2000, as adjusted by the school corporation under this act after applying IC 21-3-1.6-1.2, as added by this act.

STEP TWO: Determine the result of:

(A) the school corporation's previous year's revenue under IC 21-3-1.7-3.1, without regard to IC 21-3-1.6-1.2, as added by this act; divided by

(B) the school corporation's average daily membership for 2000, without regard to IC 21-3-1.6-1.2, as added by this act.

STEP THREE: Multiply the STEP ONE result by the STEP TWO result.

STEP FOUR: Multiply the STEP THREE result by one-third (1/3).

(2) For 2002, the previous year revenue determined without regard to IC 21-3-1.6-1.2, as added by this act, shall be reduced by an amount equal to the result under STEP FOUR of subdivision (1) multiplied by one and three-hundredths (1.03).

(3) For 2003, the previous year revenue determined without regard to IC 21-3-1.6-1.2, as added by this act, shall be reduced by an amount equal to the reduction amount under subdivision (2) multiplied by one and three-hundredths (1.03).

(b) This SECTION expires January 1, 2004.

SECTION 7. [EFFECTIVE JANUARY 1, 2001] (a) Notwithstanding IC 21-3-1.6-1.2, as added by this act, and IC 21-3-1.7-6.6, for 2001, a school corporation's "adjusted ADM", for purposes of IC 21-3-1.7, is determined under the following STEPS:

STEP ONE: Determine the school corporation's adjusted ADM under IC 21-3-1.7-6.6 for 2001. For purposes of

determining adjusted ADM for 2001, 2000 ADM is without regard to IC 21-3-1.6-1.2.

STEP TWO: Determine the difference between:

(A) the school corporation's average daily membership count for 2000, without regard to IC 21-3-1.6-1.2, as added by this act; minus

(B) the school corporation's average daily membership count for 2000, as adjusted by the school corporation under this act after applying IC 21-3-1.6-1.2, as added by this act.

STEP THREE: Multiply the STEP TWO result by twenty-seven percent (27%).

STEP FOUR: Determine the greater of zero (0) or the result of:

(A) the school corporation's average daily membership count for 2001; minus

(B) the school corporation's average daily membership count for 2000, as adjusted by the school corporation under this act after applying IC 21-3-1.6-1.2, as added by this act, regardless of the effective date of IC 21-3-1.6-1.2.

STEP FIVE: Multiply the STEP FOUR result by twenty-seven percent (27%).

STEP SIX: Determine the greater of zero (0) or the result of:

(A) the STEP THREE result; minus

(B) the STEP FIVE result.

STEP SEVEN: Determine the result of:

(A) the STEP ONE result; minus

(B) the STEP SIX result.

(b) This SECTION expires January 1, 2004.

SECTION 8. [EFFECTIVE JANUARY 1, 2001] (a) Notwithstanding IC 21-3-1.6-1.2, as added by this act, and IC 21-1-30, the primetime distribution determined under IC 21-1-30 for a school corporation shall be reduced as follows:

(1) For 2001, the primetime amount under IC 21-1-30 the school corporation received for the previous year without regard to IC 21-3-1.6-1.2, as added by this act, shall be reduced by an amount determined under the following STEPS:

STEP ONE: Determine the difference between:

(A) the school corporation's primetime distribution for 2000, without regard to IC 21-3-1.6-1.2, as added by this

act; minus

(B) the school corporation's primetime distribution for 2000, after applying IC 21-3-1.6-1.2, as added by this act.

STEP TWO: Multiply the STEP ONE result by one-third (1/3).

(2) For 2002 through 2003, the primetime amount under IC 21-1-30 that the school corporation received for the previous year without regard to IC 21-3-1.6-1.2, as added by this act, shall be reduced by an amount equal to the result under STEP TWO of subdivision (1).

(b) This SECTION expires January 1, 2004.

SECTION 9. An emergency is declared for this act.

P.L.94-2000

[S.490. Approved March 15, 2000.]

AN ACT to amend the Indiana Code concerning utilities.

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

SECTION 1. IC 8-1-31 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]:

Chapter 31. Distribution System Improvement Charges

Sec. 1. The definitions in IC 8-1-2-1 apply throughout this chapter.

Sec. 2. As used in this chapter, "DSIC" refers to distribution system improvement charge.

Sec. 3. As used in this chapter, "DSIC costs" means depreciation expenses and pretax return associated with eligible distribution system improvements.

Sec. 4. As used in this chapter, "DSIC revenues" means revenues produced through a DSIC exclusive of revenues from all other rates and charges.

Sec. 5. As used in this chapter, "eligible distribution system improvements" means new used and useful water utility plant projects that:

- (1) do not increase revenues by connecting the distribution system to new customers;
- (2) are in service; and
- (3) were not included in the public utility's rate base in its most recent general rate case.

Sec. 6. As used in this chapter, "pretax return" means the revenues necessary to:

- (1) produce net operating income equal to the public utility's weighted cost of capital multiplied by the net original cost of eligible distribution system improvements; and
- (2) pay state and federal income taxes applicable to such income.

Sec. 7. As used in this chapter, "public utility" means a:

- (1) public utility (as defined in IC 8-1-2-1(a)); or
- (2) municipally owned utility (as defined in IC 8-1-2-1(h)).

Sec. 8. (a) Except as provided in subsection (d), a public utility providing water service may file with the commission rate schedules establishing a DSIC that will allow the automatic adjustment of the public utility's basic rates and charges to provide for recovery of DSIC costs.

(b) The public utility shall serve the office of the utility consumer counselor a copy of its filing at the time of its filing with the commission.

(c) Publication of notice of the filing is not required.

(d) A public utility may not file a petition under this section in the same calendar year in which the public utility has filed a request for a general increase in the basic rates and charges of the public utility.

Sec. 9. (a) When a petition is filed under section 8 of this chapter, the commission shall conduct a hearing.

(b) The office of the utility consumer counselor may examine information of the public utility to confirm that the system improvements are in accordance with section 5 of this chapter, to confirm proper calculation of the proposed charge, and submit a report to the commission not later than thirty (30) days after the petition is filed.

(c) The commission shall hold the hearing and issue its order not later than sixty (60) days after the petition is filed.

(d) If the commission finds that a DSIC petition complies with the requirements of this chapter, the commission shall enter an order approving the petition.

Sec. 10. (a) Except as provided in subsection (b), a public utility may, but is not required to, file a petition for a change in its DSIC not more often than one (1) time every twelve (12) months.

(b) Except as provided in section 15 of this chapter, a public utility may not file a petition for a change in its DSIC in the same calendar year in which the public utility has filed a request for a general increase in the basic rates and charges of the public utility.

Sec. 11. In determining an appropriate pretax return, the commission may consider the following factors:

- (1)** The current state and federal income tax rates.
- (2)** The public utility's actual regulatory capital structure.
- (3)** The actual cost rates for the public utility's long term debt and preferred stock.
- (4)** The public utility's cost of common equity.
- (5)** Other components that the commission considers appropriate.

Sec. 12. The cost of common equity to be used in the calculation of the charge shall be the most recent determination by the commission in a general rate proceeding of the public utility. If the commission finds that the last such determination is no longer representative of current conditions, the commission may make a new determination of the common equity cost rate for use in determining the charge, after notice and hearing. The most recent prior determination shall be used pending any redetermination.

Sec. 13. The commission may not approve a DSIC to the extent it would produce total DSIC revenues exceeding five percent (5%) of the public utility's base revenue level approved by the commission in the public utility's most recent general rate proceeding.

Sec. 14. The DSIC may be calculated based on a reasonable estimate of sales in the period in which the charge will be in effect. At the end of each twelve (12) month period the charge is in effect, and using procedures approved by the commission, the public utility shall reconcile the difference between DSIC revenues and DSIC costs during that period and recover or refund the difference, as appropriate, through adjustment of the charge.

Sec. 15. A public utility that has implemented a DSIC under this chapter shall file revised rate schedules resetting the charge if new basic rates and charges become effective for the public utility following a commission order authorizing a general increase in rates and charges that includes in the utility's rate base eligible

distribution system improvements reflected in the DSIC.

Sec. 16. For purposes of IC 8-1-2-42(a), the filing of a DSIC and a change in a DSIC is not a general increase in basic rates and charges.

Sec. 17. The commission may adopt by rule under IC 4-22-2 or by order other procedures not inconsistent with this chapter that the commission finds reasonable or necessary to administer a DSIC.

SECTION 2. IC 8-1-32 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]:

Chapter 32. Water Wells

Sec. 1. This chapter applies only to a subject area located entirely or partially within:

- (1) a city; or
- (2) a county having a consolidated city.

Sec. 2. The definitions in IC 8-1-2-1 apply throughout this chapter.

Sec. 3. As used in this chapter, "health agency" refers to either of the following:

- (1) The state department of health.
- (2) A local health department (as defined in IC 16-18-2-211).

Sec. 4. As used in this chapter, "project" refers to the extension of water utility service to a subject area.

Sec. 5. As used in this chapter, "subject area" refers to an area described in section 6 of this chapter.

Sec. 6. (a) Notwithstanding IC 8-1-2-103(a), if a health agency determines that an area located within a city or within a county having a consolidated city:

- (1) is served by private water wells;
- (2) suffers from a health hazard due to the presence of at least one (1) contaminant; and
- (3) incorporates at least a portion of at least one (1) census tract or block having a median household income of less than two hundred percent (200%) of the most recently determined federal income poverty level;

the health agency may direct the nearest public utility that is authorized to provide water utility service within the municipality to prepare and provide to the commission an estimate of the cost of extending water utility service to the subject area and request the commission to approve the project.

(b) The costs estimated under subsection (a) may include the following:

- (1) Installing the mains and connecting service lines on properties within the subject area.**
- (2) Abandoning and plugging existing wells in accordance with IC 25-39-2-14 and rules adopted under IC 25-39 on properties within the subject area.**
- (3) Restoration of areas disturbed by the project.**
- (4) Other reasonable costs of extending water utility service to the subject area.**

Sec. 7. If the commission approves the project, the commission shall, at the request of the health agency, direct the local public utility to undertake and complete the project. The commission shall enter such an order only if both of the following apply:

- (1) The commission's order authorizes an increase in the local public utility's water rates in an amount sufficient to cover the local public utility's depreciation expense related to its investment in the project and provide the local public utility an after-tax return on the undepreciated portion of the project at a rate not less than the rate of return allowed the local public utility on its rate base in its most recent general rate order as:
 - (A) set out in the order; or**
 - (B) stipulated by the local public utility and the office of the utility consumer counselor.****
- (2) The rate adjustment associated with the project will not increase the local public utility's rates by more than one percent (1%).**

Sec. 8. A rate adjustment authorized under section 7 of this chapter must be reflected in an amended rate schedule filed with the commission not later than thirty (30) days after the commission enters the order, effective upon completion of the project.

Sec. 9. A rate adjustment authorized under section 7 of this chapter:

- (1) is not considered as a general increase in the local public utility's basic rates and charges for purposes of IC 8-1-2-42(a); and**
- (2) may be further adjusted by the commission to reflect actual project costs upon petition by the local public utility or the office of the utility consumer counselor.**

Sec. 10. If the commission orders a project under this chapter,

the health agency shall require owners of properties in the subject area to connect those properties to a project main and to abandon and plug their existing wells in accordance with IC 25-39-2-14 and rules adopted under IC 25-39.

Sec. 11. (a) Upon completion of a project, the local public utility shall be responsible for operating and maintaining;

- (1) the mains installed; and
- (2) any portion of the connecting service lines that are located in a public right-of-way.

(b) Upon completion of a project, each property owner shall be responsible for maintaining, repairing, and replacing, if necessary, the portion of the service line on the property served that is not required to be serviced by the local public utility under subsection **(a)**.

Sec. 12. This chapter does not reduce or supersede the commission's jurisdiction under IC 8-1-2-86 and IC 8-1-2-86.5.

SECTION 3. [EFFECTIVE JULY 1, 2000] **(a)** If both of the following apply, a local water utility may, but is not required to, adjust its rates under IC 8-1-32, as added by this act, upon approval by the Indiana utility regulatory commission:

- (1) The local water utility has undertaken a project requested by a municipal council and confirmed by an appropriate health agency under P.L.221-1997, SECTION 2, before July 1, 2000.
- (2) The local water utility has not adjusted its rates as permitted by P.L.221-1997, SECTION 2.

(b) This SECTION expires July 1, 2001.

P.L.95-2000

[S.504. Approved March 15, 2000.]

AN ACT to amend the Indiana Code concerning human services.

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

SECTION 1. IC 12-7-2-76.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 76.5. (a)** "Emergency",

for purposes of IC 12-20, means an unpredictable circumstance or a series of unpredictable circumstances that:

- (1) place the health or safety of a household or a member of a household in jeopardy; and
- (2) cannot be remedied in a timely manner by means other than township assistance.

(b) "Emergency", for purposes of IC 12-17.6, has the meaning set forth in IC 12-17.6-1-2.6.

SECTION 2. IC 12-17.6-1-2.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 2.6. "Emergency" means a medical condition that arises suddenly and unexpectedly and manifests itself by acute symptoms of such severity, including severe pain, that the absence of immediate medical attention could reasonably be expected by a prudent lay person who possesses an average knowledge of health and medicine to:**

- (1) place an individual's health in serious jeopardy;**
- (2) result in serious impairment to the individual's bodily functions; or**
- (3) result in serious dysfunction of a bodily organ or part of the individual.**

SECTION 3. IC 12-17.6-4-3, AS ADDED BY P.L.273-1999, SECTION 177, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 3. Premium and cost sharing amounts established by the office are limited by the following:**

- (1) Deductibles, coinsurance, or other cost sharing is not permitted with respect to benefits for:
 - (A) well-baby and well-child care, including age appropriate immunizations; and**
 - (B) services provided for treatment of an emergency in an emergency department of a hospital licensed under IC 16-21.**
- (2) Premiums and other cost sharing may be imposed based on family income. However, the total annual aggregate cost sharing with respect to all children in a family under this article may not exceed five percent (5%) of the family's income for the year.

P.L.96-2000

[S.508. Approved March 15, 2000.]

AN ACT to amend the Indiana Code concerning education finance.

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

SECTION 1. IC 6-1.1-17-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 5. (a) The officers of political subdivisions shall meet each year to fix the budget, tax rate, and tax levy of their respective subdivisions for the ensuing budget year as follows:

- (1) The fiscal body of a consolidated city and county, not later than the last meeting of the fiscal body in September.
- (2) The fiscal body of a second class city, not later than September 30.
- ~~(3) The board of school trustees or board of school commissioners of a school city or town, not later than the time required in section 5.1 of this chapter.~~
- ~~(4)~~ (3) The proper officers of all other political subdivisions, not later than September 20.

Except in a consolidated city and county and in a second class city, the public hearing required by section 3 of this chapter must be completed at least ten (10) days before the proper officers of the political subdivision meet to fix the budget, tax rate, and tax levy. In a consolidated city and county and in a second class city, that public hearing, by any committee or by the entire fiscal body, may be held at any time after introduction of the budget.

(b) Ten (10) or more taxpayers may object to a budget, tax rate, or tax levy of a political subdivision fixed under subsection (a) by filing an objection petition with the proper officers of the political subdivision not more than seven (7) days after the hearing. The objection petition must specifically identify the provisions of the budget, tax rate, and tax levy to which the taxpayers object.

(c) If a petition is filed under subsection (b), the fiscal body of the political subdivision shall adopt with its budget a finding concerning the objections in the petition and any testimony presented at the adoption hearing.

(d) This subsection does not apply to a school corporation. Each year at least two (2) days before the first meeting of the county board of tax adjustment held under IC 6-1.1-29-4, a political subdivision shall file with the county auditor:

- (1) a statement of the tax rate and levy fixed by the political subdivision for the ensuing budget year;
- (2) two (2) copies of the budget adopted by the political subdivision for the ensuing budget year; and
- (3) two (2) copies of any findings adopted under subsection (c).

Each year the county auditor shall present these items to the county board of tax adjustment at the board's first meeting.

(e) In a consolidated city and county and in a second class city, the clerk of the fiscal body shall, notwithstanding subsection (d), file the adopted budget and tax ordinances with the county board of tax adjustment within two (2) days after the ordinances are signed by the executive, or within two (2) days after action is taken by the fiscal body to override a veto of the ordinances, whichever is later.

SECTION 2. IC 6-1.1-42-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 10. A designating body that adopts a resolution under section 9 of this chapter, shall do the following:

- (1) Publish notice of the adoption and substance of the resolution in accordance with IC 5-3-1.
- (2) File the following information with each taxing unit that has authority to levy property taxes in the geographic area where the zone is located:
 - (A) A copy of the notice required by subdivision (1).
 - (B) A statement containing substantially the same information as a statement of benefits filed with the designating body under section 6 of this chapter.

The notice must state that a description of the affected area is available and can be inspected in the county assessor's office. The notice must also name a date when the designating body will receive and hear all remonstrances and objections from interested persons. The designating body shall file the information required by subdivision (2) with the officers of the taxing unit who are authorized to fix budgets, tax rates, and tax levies under IC 6-1.1-17-5 or ~~IC 6-1.1-17-5.1~~ at least ten (10) days before the date of the public hearing.

SECTION 3. IC 6-1.1-42-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 20. A designating body

that adopts a resolution under section 19 of this chapter shall do the following:

- (1) Publish notice of the adoption and substance of the resolution in accordance with IC 5-3-1.
- (2) File the following information with each taxing unit that has authority to levy property taxes in the geographic area where the zone is located:
 - (A) A copy of the notice required by subdivision (1).
 - (B) A statement containing substantially the same information as a statement of benefits filed with the designating body under section 18 of this chapter.

The notice must state that a description of the affected area is available and can be inspected in the county assessor's office. The notice must also name a date when the designating body will receive and hear all remonstrances and objections from interested persons. The designating body shall file the information required by subdivision (2) with the officers of the taxing unit who are authorized to fix budgets, tax rates, and tax levies under IC 6-1.1-17-5 or ~~IC 6-1.1-17-5.1~~ at least ten (10) days before the date of the public hearing.

SECTION 4. IC 21-2-11.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 2. (a) Each calendar year, the governing body of each school corporation shall establish a school transportation fund which shall be the exclusive fund used by the school corporation for the payment of costs attributable to transportation listed in ~~subsection (b)(1) through (b)(7)~~, **subdivisions (1) through (7)**, as authorized under IC 20, of school children during the school year ending in the calendar year: ~~The following accounts are established within the school transportation fund:~~

- ~~(1) An operating costs account from which the costs attributable to transportation listed in subsection (b)(1) through (b)(7) shall be paid.~~
- ~~(2) A school bus replacement account from which the costs attributable to transportation listed in subsection (b)(8) through (b)(9) shall be paid.~~
- (b) The costs attributable to transportation include the following:**
 - (1) The salaries paid bus drivers, transportation supervisors, mechanics and garage employees, clerks, and other transportation-related employees.
 - (2) Contracted transportation service, other than costs payable from the school bus replacement account under subsection (e).

- (3) Wages of independent contractors.
- (4) Contracts with common carriers.
- (5) Pupil fares.
- (6) Transportation-related insurance.
- (7) Other expenses of operating the school corporation's transportation service, including gasoline, lubricants, tires, repairs, contracted repairs, parts, supplies, equipment, and other related expenses.

(b) The governing body of each school corporation shall establish a school bus replacement fund. The school bus replacement fund shall be the exclusive fund used to pay the following costs attributable to transportation:

~~(8)~~ **(1)** Amounts paid for the replacement of school buses, either through a purchase agreement or under a lease agreement.

~~(9)~~ **(2)** The costs of contracted transportation service payable from the school bus replacement account under subsection (e).

(c) Beginning January 1, 1996, portions, percentages, or parts of salaries of teaching personnel or principals are not attributable to transportation. However, parts of salaries of instructional aides who are assigned to assist with the school transportation program are attributable to transportation. The costs described in this subsection (other than instructional aide costs) may not be budgeted for payment or paid from the school transportation fund.

(d) Costs for a calendar year are those costs attributable to transportation for school children during the school year ending in the calendar year.

(e) Before the last Thursday in August in the year preceding the first school year in which a proposed contract commences, the governing body of a school corporation may elect to designate a portion of a transportation contract (as defined in IC 20-9.1-1-8), fleet contract (as defined in IC 20-9.1-1-8.2), or common carrier contract (as defined in IC 20-9.1-1-9) as an expenditure payable from the school bus replacement ~~account~~ **fund**. An election under this section must be made in a transportation plan approved by the state board of tax commissioners under section 3.1 of this chapter. The election applies throughout the term of the contract. The amount that may be paid from the school bus replacement ~~account~~ **fund** in a school year is equal to the fair market lease value ~~of~~ **in** the school year of each school bus, school bus chassis, or school bus body used under the contract, as substantiated by invoices, depreciation schedules, and other

documented information available to the school corporation. The allocation of costs under this subsection to the school bus replacement **account fund** must comply with the allocation guidelines adopted by the state board of tax commissioners and the accounting standards prescribed by the state board of accounts.

SECTION 5. IC 21-2-11.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 3. (a) Subject to subsection (b), each school corporation may levy for the calendar year a property tax for the school transportation **fund's operating costs account fund** sufficient to pay all operating costs attributable to transportation that:

- (1) are not paid from other revenues available to the fund as specified in section 4 of this chapter; and
- (2) are listed in section ~~2(b)(1)~~ **2(a)(1)** through ~~2(b)(7)~~ **2(a)(7)** of this chapter.

(b) For taxes first due and payable in 1996, the property tax levy for the **fund's operating costs account fund** may not exceed the amount determined using the following formula:

STEP ONE: Determine the sum of the expenditures attributable to operating costs listed in section ~~2(b)(1)~~ **2(a)(1)** through ~~2(b)(7)~~ **2(a)(7)** of this chapter that were made by the school corporation as determined by the state board of tax commissioners for all operating costs attributable to transportation that are not paid from other revenues available to the fund for school years ending in 1993, 1994, and 1995.

STEP TWO: Divide the amount determined in STEP ONE by three (3).

STEP THREE: Determine the greater of:

- (A) the STEP TWO amount; or
- (B) the school corporation's actual transportation fund levy attributable to operating costs for property taxes first due and payable in 1995.

STEP FOUR: Multiply the amount determined in STEP THREE by one and five-hundredths (1.05).

(c) For each year after 1996, the levy for the **fund's operating account fund** may not exceed the levy for the previous year multiplied by the assessed value growth quotient determined using the following formula:

STEP ONE: Determine the three (3) calendar years that most immediately precede the ensuing calendar year and in which a

statewide general reassessment of real property does not first become effective.

STEP TWO: Compute separately, for each of the calendar years determined in STEP ONE, the quotient (rounded to the nearest ten-thousandth) of the school corporation's total assessed value of all taxable property in the particular calendar year, divided by the school corporation's total assessed value of all taxable property in the calendar year immediately preceding the particular calendar year.

STEP THREE: Divide the sum of the three (3) quotients computed in STEP TWO by three (3).

STEP FOUR: Determine the greater of the result computed in STEP THREE or one and five-hundredths (1.05).

STEP FIVE: Determine the lesser of the result computed in STEP FOUR or one and one-tenth (1.1).

If the assessed values of taxable property used in determining a school corporation's property taxes that are first due and payable in a particular calendar year are significantly increased over the assessed values used for the immediately preceding calendar year's property taxes due to the settlement of litigation concerning the general reassessment of that school corporation's real property, then for purposes of determining that school corporation's assessed value growth quotient for an ensuing calendar year, the state board of tax commissioners shall replace the quotient described in STEP TWO for that particular calendar year. The state board of tax commissioners shall replace that quotient with one that as accurately as possible will reflect the actual growth in the school corporation's assessed values of real property from the immediately preceding calendar year to that particular calendar year. The maximum property levy limit computed under this section for the ~~operating account school transportation fund~~ shall be reduced to reflect the transfer of costs ~~from the for~~ operating ~~account of the transportation fund~~ to the school bus replacement ~~account of the transportation fund~~ under section 2(e) of this chapter. The total reduction in the ~~operating account school transportation fund~~ maximum property tax levy may not exceed the amount of the fair market lease value of the contracted transportation service expenditures paid from the ~~operating account fund~~ before the transfer.

(d) Each school corporation may levy for the calendar year a tax for the school ~~transportation fund's school~~ bus replacement ~~account fund~~

in accordance with the school bus acquisition plan adopted under section 3.1 of this chapter.

(e) The tax rate and levy **for each fund** shall be established as a part of the annual budget for the calendar year in accord with IC 6-1.1-17.

SECTION 6. IC 21-2-11.5-3.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 3.1. (a) Before a governing body may collect property taxes for the ~~school transportation fund's~~ school bus replacement ~~account~~ **fund** in a particular calendar year, the governing body must, after January 1 and not later than September 20 of the immediately preceding year: ~~for all years before 1999 and not later than January 31 for 1999 and all subsequent years:~~

- (1) conduct a public hearing on; and
- (2) pass a resolution to adopt;

a plan under this section.

(b) The state board of tax commissioners shall prescribe the format of the plan. A plan must apply to at least the ten (10) budget years immediately following the year the plan is adopted. A plan must at least include the following:

- (1) An estimate for each year to which it applies of the nature and amount of proposed expenditures from the transportation fund's school bus replacement account.
- (2) A presumption that the minimum useful life of a school bus is not less than ten (10) years.
- (3) An identification of:
 - (A) the source of all revenue to be dedicated to the proposed expenditures in the upcoming budget year; and
 - (B) the amount of property taxes to be collected in that year and the unexpended balance to be retained in the ~~account~~ **fund** for expenditures proposed for a later year.
- (4) If the school corporation is seeking to:
 - (A) acquire; or
 - (B) contract for transportation services that will provide; additional school buses or school buses with a larger seating capacity as compared to the number and type of school buses from the prior school year, evidence of a demand for increased transportation services within the school corporation. Clause (B) does not apply if contracted transportation services are not paid from the school bus replacement ~~account~~ **fund**.
- (5) If the school corporation is seeking to:
 - (A) replace an existing school bus earlier than ten (10) years

after the existing school bus was originally acquired; or

(B) require a contractor to replace a school bus;

evidence that the need exists for the replacement of the school bus. Clause (B) does not apply if contracted transportation services are not paid from the school bus replacement ~~account~~ **fund**.

(6) Evidence that the school corporation that seeks to acquire additional school buses under this section is acquiring or contracting for the school buses only for the purposes specified in subdivision (4) or for replacement purposes.

(c) After reviewing the plan, the state board of tax commissioners shall certify its approval, disapproval, or modification of the plan to the governing body and the auditor of the county. The state board of tax commissioners may seek the recommendation of the school property tax control board with respect to this determination. The action of the state board of tax commissioners with respect to the plan is final.

(d) The state board of tax commissioners may approve appropriations from the transportation fund's school bus replacement ~~account~~ **fund** only if the appropriations conform to a plan that has been adopted in compliance with this section.

(e) A governing body may amend a plan adopted under this section. When an amendment to a plan is required, the governing body must declare the nature of and the need for the amendment and must show cause as to why the original plan no longer meets the transportation needs of the school corporation. The governing body must then conduct a public hearing on and pass a resolution to adopt the amendment to the plan. The plan, as proposed to be amended, must comply with the requirements for a plan under subsection (b). This amendment to the plan is not subject to the deadline for adoption described in subsection (a). However, the amendment to the plan must be submitted to the state board of tax commissioners for its consideration and is subject to approval, disapproval, or modification in accordance with the procedures for adopting a plan set forth in this section.

(f) If a public hearing is scheduled under this section, the governing body shall publish a notice of the public hearing and the proposed plan or amendment to the plan in accordance with IC 5-3-1-2(b).

SECTION 7. IC 21-2-15-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 5. (a) Before a governing body may collect property taxes for a capital projects fund in a particular year, the governing body must, after January 1 and not

later than September 20 of the immediately preceding year, ~~for all years before 1999 and not later than January 31 for 1999 and all subsequent years~~ hold a public hearing on a proposed plan and then pass a resolution to adopt a plan.

(b) The state board of tax commissioners shall prescribe the format of the plan. A plan must apply to at least the three (3) years immediately following the year the plan is adopted. A plan must estimate for each year to which it applies the nature and amount of proposed expenditures from the capital projects fund. A plan must estimate:

- (1) the source of all revenue to be dedicated to the proposed expenditures in the upcoming calendar year; and
- (2) the amount of property taxes to be collected in that year and retained in the fund for expenditures proposed for a later year.

(c) If a hearing is scheduled under subsection (a), the governing body shall publish the proposed plan and a notice of the hearing in accordance with IC 5-3-1-2(b).

SECTION 8. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2000]: IC 6-1.1-17-5.1; P.L.50-1996, SECTION 19, AS AMENDED BY P.L.273-1999, SECTION 154; P.L.50-1996, SECTION 20, AS AMENDED BY P.L.273-1999, SECTION 155.

SECTION 9. P.L.50-1996, SECTION 18, AS AMENDED BY P.L.273-1999, SECTION 153, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: (a) The department of education and the state board of tax commissioners shall select pilot school corporations under subsection (b). Beginning January 1, 1997, the school corporations selected under subsection (b) shall comply with SECTIONS 1 through 18 of this act as if those SECTIONS were effective January 1, 1997.

(b) Before October 1, 1996, the department of education and the state board of tax commissioners shall meet to select ten (10) pilot school corporations. The pilot school corporations shall be selected with the objective that the pilot school corporations collectively represent a broad range of the different types and sizes of school corporations that exist in Indiana. In order to achieve this objective, the department of education and the state board of tax commissioners shall select the pilot school corporations based on the following criteria:

- (1) The size of the student population within the corporation.
- (2) The size of the geographic territory served by the corporation.
- (3) The average growth of the property tax assessed valuation

within the corporation's district over the preceding three (3) years.

(4) The growth or decline of the ADM (as defined in IC 21-3-1.6-1.1) within the corporation over the preceding three (3) years, excluding any year in which there is a general reassessment.

(5) The extent of urban development in the corporation.

(6) Any other factors the department of education and the state board of tax commissioners determine are necessary to distinguish a group or category of school corporations that deserve representation by a pilot school corporation.

(c) All state and local governmental officials whose official functions relate to this act shall cooperate with the department of education, the state board of tax commissioners, and the pilot school corporations to implement this act.

~~(d) This SECTION expires July 1, 2001.~~

P.L.97-2000

[S.515. Approved March 15, 2000.]

AN ACT concerning local government.

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

SECTION 1. [EFFECTIVE JULY 1, 2000] (a) As used in this SECTION, "historical society" refers to the Anson Wolcott Historical Society, Inc.

(b) As used in this SECTION, "Princeton Township" refers to Princeton Township in White County.

(c) As used in this SECTION, "real estate" refers to the real estate and improvements that are:

(1) held by Princeton Township; and

(2) generally known as:

(A) the Wolcott House and Grounds that are located in a tract of land out of the Northeast Quarter of Section 25, Township 27 North, Range 6 West in Princeton Township, White County, Indiana, and described more fully as follows:

Beginning at a point 240 feet north of the intersection of the North line of School Street with the West line of Range Street in the town of Wolcott, and running thence North 87 degrees and 33 minutes West 240 feet; thence South 40 feet; thence North 87 degrees and 33 minutes West 642 feet along the North side of Wolcott Fifth Addition; thence North 1 degree and 39 minutes East 501.2 feet; thence South 88 degrees and 50 minutes East 626.9 feet; thence South 78 feet; thence East 240 feet; thence South 408 feet to the point of beginning, containing 9.56 acres, more or less; and

(B) the Wolcott farm that is located in the Northwest Quarter of Section 18, Township 27 North, Range 5 West, containing 129.5 acres, and 29.5 acres off the North side of said Southwest Quarter of Section 18, Township 27 North, Range 5 West; in all comprising 159 acres, more or less. Except that part of the Southwest Quarter of Section 18, Township 27 North, Range 5 West in Princeton Township, White County, Indiana, described by:

Commencing at the Southwest Corner of the Southwest Quarter of Section 18; thence North 00 degrees 59 minutes 12 seconds West along the Section Line and the centerline of County Road 900 West, a distance of 2,032.49 feet to the point of beginning; thence North 00 degrees 59 minutes 12 seconds West along the Section line and the center line of County Road 900 West, a distance of 431.38 feet; thence north 89 degrees 00 minutes 48 seconds East, a distance of 215.6 feet; thence South 00 degrees 59 minutes 12 seconds East, a distance of 428.72 feet, thence South 88 degrees 18 minutes 26 seconds West along an existing fence and possession line, a distance of 215.62 feet to the point of beginning, containing 2.128 acres.

(d) The trustee of Princeton Township may transfer the real estate or a portion of the real estate to the historical society without:

- (1) receiving compensation from the historical society for the real estate; and
- (2) complying with IC 36-1-11 or any other applicable law relating to the transfer of real property by Princeton Township.

(e) To transfer the real estate or a portion of the real estate to the historical society, the Princeton Township trustee must give the historical society a deed to the real estate or portion of the real estate. The deed for the real estate or portion of the real estate must contain the following provisions:

(1) That the historical society may not transfer the real estate to another entity.

(2) That if the historical society ceases to exist the real estate reverts to the Princeton Township. However, if the office of the township trustee is no longer in existence when the historical society ceases to exist, then the White County circuit court shall:

(A) place a notice in a publication of general circulation in Princeton Township to receive comments from the citizens of Princeton Township concerning the real estate; and

(B) appoint a trustee and advisory board consisting of residents of Princeton Township to oversee the real estate.

(f) The historical society must record the deed given under subsection (e).

(g) The Princeton Township trustee may give to the historical society equipment, artifacts, and other personal property owned by Princeton Township that are relevant to the history of Anson Wolcott or the Anson Wolcott real estate.

(h) This SECTION expires July 1, 2002.

P.L.98-2000

[H.1008. Approved March 16, 2000.]

AN ACT to amend the Indiana Code concerning local government.

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

SECTION 1. IC 5-3-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 3. (a) Within sixty (60) days after the expiration of each calendar year, the fiscal officer of each civil city and town in Indiana shall publish an annual report of the receipts and expenditures of the city or town ~~showing the same by funds and~~

appropriations as is provided for by ~~IC 36-2-2-19~~ for the executive of each county during the preceding calendar year. The statement must include the name of and compensation paid to each county officer, deputy, and employee.

(b) Not earlier than August 1 or later than August 15 of each year, the secretary of each school corporation in Indiana shall publish an annual financial report.

(c) In the annual financial report the school corporation shall include the following:

(1) Actual receipts and expenditures by major accounts as compared to the budget advertised under IC 6-1.1-17-3 for the prior calendar year.

(2) The salary schedule for all certificated employees (as defined in IC 20-7.5-1-2) as of June 30, with the number of employees at each salary increment. However, the listing of salaries of individual teachers is not required.

(3) The extracurricular salary schedule as of June 30.

(4) The range of rates of pay for all noncertificated employees by specific classification.

(5) The number of employees who are full-time certificated, part-time certificated, full-time noncertificated, and part-time noncertificated.

(6) The lowest, highest, and average salary for the administrative staff and the number of administrators without a listing of the names of particular administrators.

(7) The number of students enrolled at each grade level and the total enrollment.

(8) The assessed valuation of the school corporation for the prior and current calendar year.

(9) The tax rate for each fund for the prior and current calendar year.

(10) In the general fund, capital projects fund, and transportation fund, a report of the total payment made to each vendor for the specific fund in excess of two thousand five hundred dollars (\$2,500) during the prior calendar year. However, a school corporation is not required to include more than two hundred (200) vendors whose total payment to each vendor was in excess of two thousand five hundred dollars (\$2,500). A school corporation shall list the vendors in descending order from the vendor with the highest total payment to the vendor with the

lowest total payment above the minimum listed in this subdivision.

(11) A statement providing that the contracts, vouchers, and bills for all payments made by the school corporation are in its possession and open to public inspection.

(12) The total indebtedness as of the end of the prior calendar year showing the total amount of notes, bonds, certificates, claims due, total amount due from such corporation for public improvement assessments or intersections of streets, and any and all other evidences of indebtedness outstanding and unpaid at the close of the prior calendar year.

(d) The school corporation may provide an interpretation or explanation of the information included in the financial report.

(e) The department of education shall do the following:

(1) Develop guidelines for the preparation and form of the financial report.

(2) Provide information to assist school corporations in the preparation of the financial report.

(f) The annual reports required by this section and IC 36-2-2-19 and the abstract required by IC 36-6-4-13 shall each be published one (1) time only, in accordance with this chapter.

(g) Each school corporation shall submit to the department of education a copy of the financial report required under this section. The department of education shall make the financial reports available for public inspection.

SECTION 2. IC 5-3-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 4. (a) Whenever officers of a political subdivision are required to publish a notice affecting the political subdivision, they shall publish the notice in two (2) newspapers published in the political subdivision.

(b) This subsection applies to notices published by county officers. If there is only one (1) newspaper published in the county, then publication in that newspaper alone is sufficient.

(c) This subsection applies to notices published by city, town, or school corporation officers. If there is only one (1) newspaper published in the municipality or school corporation, then publication in that newspaper alone is sufficient. If no newspaper is published in the municipality or school corporation, then publication shall be made in a newspaper published in the county in which the municipality or school corporation is located and that circulates within the municipality

or school corporation. The notice shall be posted:

(1) at or near the city or town hall or school administration building; ~~and~~ or

(2) at the:

(A) public building where the governing body of the respective city, town, or school corporation meets; or

(B) post office in the municipality or school corporation (or at the bank if there is no post office);

if the municipality does not have a city or town hall, or the school corporation does not have an administration building.

(d) This subsection applies to notices published by officers of political subdivisions not covered by subsection (a) or (b), including township officers. If there is only one (1) newspaper published in the political subdivision, then the notice shall be published in that newspaper and if another newspaper is published in the county and circulates within the political subdivision in the other newspaper. If no newspaper is published in the political subdivision, then publication shall be made in a newspaper published in the county and that circulates within the political subdivision.

(e) This subsection applies to a political subdivision, including a city, town, or school corporation. Notwithstanding any other law, if a political subdivision has territory in more than one (1) county, public notices that are required by law or ordered to be published must be given as follows:

(1) By publication in two (2) newspapers published within the boundaries of the political subdivision.

(2) If only one (1) newspaper is published within the boundaries of the political subdivision, by publication in that newspaper and in some other newspaper:

(A) published in any county in which the political subdivision extends; and

(B) that has a general circulation in the political subdivision.

(3) If no newspaper is published within the boundaries of the political subdivision, by publication in two (2) newspapers that:

(A) are published in any counties into which the political subdivision extends; and

(B) have a general circulation in the political subdivision.

(4) If only one (1) newspaper is published in any of the counties into which the political subdivision extends, by publication in that newspaper if it circulates within the political subdivision.

(f) A political subdivision may, in its discretion, publish public notices in a qualified publication or additional newspapers to provide supplementary notification to the public. The cost of publishing supplementary notification is a proper expenditure of the political subdivision.

SECTION 3. IC 5-11-14-1, AS AMENDED BY P.L.35-1999, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000 (RETROACTIVE)]: Sec. 1. (a) As used in this section, "official" includes the following:

- (1) An elected official who is entitled to attend a conference under this section.
- (2) An individual elected to an office who is entitled to attend a conference under this section.
- (3) A deputy or an assistant to an elected official who is entitled to attend a conference under this section.

(b) The state board of accounts shall annually call a conference of each of the following:

- (1) County auditors and auditors elect.
- (2) County treasurers and treasurers elect.
- (3) Circuit court clerks and circuit court clerks elect.

(c) Each of the conferences called under subsection (b):

- (1) must be held at a time and place fixed by the state examiner;
- (2) may be held statewide or by district; and
- (3) may not continue for longer than three (3) days in any one (1) year.

(d) The following training must be provided at each conference called under subsection (b):

- (1) The proper use of forms prescribed by the state board of accounts.
- (2) The keeping of the records of the respective offices.
- (3) At the conference for county treasurers and treasurers elect, investment training by the following:

- (A) The treasurer of state.
- (B) The board for depositories.
- (C) Any other person the state examiner considers to be competent in providing investment training.

(4) Any other training that, in the judgment of the state examiner, will result in the better conduct of the public business.

(e) The state examiner may hold other conferences for:

- (1) the officials described in subsection (b); or

(2) other county, city, or township officers; whenever in the judgment of the state examiner conferences are necessary.

(f) Whenever a conference is called by the state board of accounts under this section, an elected official, at the direction of the state examiner, may require the attendance of:

(1) each of the elected official's appointed and acting chief deputies or chief assistants; and

(2) if the number of deputies or assistants employed:

(A) does not exceed three (3), one (1) of the elected official's appointed and acting deputies or assistants; or

(B) exceeds three (3), two (2) of the elected official's duly appointed and acting deputies or assistants.

(g) Each official attending any conference under this section shall be allowed, for each mile necessarily traveled in going to and returning from the conference by the most expeditious route, a sum for mileage at a rate determined by the fiscal body of the unit the official represents. Each official shall also be allowed, while attending a conference called under this section, an allowance for lodging for each night preceding conference attendance in an amount equal to the single room rate. However, lodging expense, in the case of a one (1) day conference, shall only be allowed for persons who reside fifty (50) miles or farther from the conference location. **Each official shall be reimbursed, in an amount determined by the fiscal body of the unit the official represents, for meals purchased while attending a conference called under this section.** Regardless of the duration of the conference, only one (1) mileage reimbursement shall be allowed to the official furnishing the conveyance although the official transports more than one (1) person.

(h) The state board of accounts shall certify the number of days of attendance and the mileage for each conference to each official attending any conference under this section.

(i) All payments of mileage and lodging shall be made by the proper disbursing officer in the manner provided by law on a duly verified claim or voucher to which shall be attached the certificate of the state board of accounts showing the number of days attended and the number of miles traveled. All payments shall be made from the general fund from any money not otherwise appropriated and without any previous appropriation being made therefor.

SECTION 4. IC 6-1.1-24-5.3 IS ADDED TO THE INDIANA

CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 5.3. (a) This section applies to the following:**

(1) A person who owes delinquent taxes, special assessments, penalties, interest, or costs directly attributable to a prior tax sale on a tract of real property listed under section 1 of this chapter.

(2) A person who is an agent of the person described in subdivision (1).

(b) A person subject to this section may not purchase a tract offered for sale under section 5, 5.2, 5.5, or 5.6 of this chapter.

(c) If a person purchases a tract that the person was not eligible to purchase under this section, the sale of the property is void. The county treasurer shall apply the amount of the person's bid to the person's delinquent taxes and offer the real property for sale again under this chapter.

SECTION 5. IC 6-4.1-10-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 3. (a) The department of state revenue shall review each claim for refund and shall enter an order either approving, partially approving, or disapproving the refund. If the department either approves or partially approves a claim for refund, the department shall send a copy of the order to:

(1) the treasurer of the county that collected the tax, if the refund applies to inheritance tax collected as a result of a resident decedent's death; ~~or and~~

(2) the treasurer of state. ~~if the refund applies to tax collected by the department.~~

The ~~county or state~~ treasurer ~~as the case may be~~, of state shall pay the refund from money which is under his control and which has not otherwise been appropriated. The ~~county or state~~ treasurer of state shall receive a credit for the **county portion of the** amount so refunded, **and** the county treasurer **of the county owing the credit** shall ~~claim the credit account for the credit~~ on his the county's inheritance tax report for the quarter in which the refund is paid.

(b) Within five (5) days after entering an order with respect to a claim for refund filed under section 1 of this chapter, the department shall send a copy of the order to the person who filed the claim.

SECTION 6. IC 13-21-3-12.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 12.2. (a) This section applies to a**

county having a population of more than one hundred sixty thousand (160,000) but less than two hundred thousand (200,000).

(b) In addition to the powers granted to a district under section 12 of this chapter, a district may make grants or loans of money, property, or services to a public or private program to plant or maintain trees in an area of the district that is a right-of-way, public property, or vacant property.

SECTION 7. IC 8-17-1-45 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 45. (a) Each county is responsible for the construction, reconstruction, maintenance, and operation of the roads, **including the ditches and signs for those roads**, making up its southern and eastern boundaries.

(b) The county executives of two (2) adjoining counties may enter into an agreement under IC 36-1-7 for the construction, reconstruction, maintenance, or operation of any road or part of a road that makes up the boundary between the two (2) counties. In addition to the requirements of IC 36-1-7-3, an agreement under this section must provide for the following:

- (1) The division of costs between the counties.
- (2) The schedule for the work.
- (3) The method of resolving disputes concerning the agreement if any arise.
- (4) Any other terms the counties consider necessary.

SECTION 8. IC 20-14-1-8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 8. A township trustee of a township that is:**

- (1) located in a county having a population of more than thirty-one thousand (31,000) but less than thirty-one thousand five hundred (31,500); and**
- (2) not served by a public library;**

may pay the cost of a library card at the nearest library for a resident of the township upon request of the resident.

SECTION 9. IC 32-1-2-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 18. To entitle any conveyance, mortgage or instrument of writing to be recorded, it shall be acknowledged by the grantor or proved before any:

- (1) judge; or**
- (2) clerk of a court of record; ~~justice of the peace;~~**
- (3) auditor;**
- (4) recorder;**

- (5) notary public; or
- (6) mayor of a city in this or any other state; or before any
- (7) commissioner appointed in any other state by the governor of this state; Indiana; or before any
- (8) minister, charge d'affaires, or consul of the United States in any foreign country;
- (9) clerk of the city-county council for a consolidated city, city clerk for a second class city, or clerk-treasurer for a third class city;**
- (10) clerk-treasurer for a town; or**
- (11) person authorized under IC 2-3-4-1, including a member of the general assembly, the principal clerk of the house of representatives, and the secretary of the senate.**

SECTION 10. IC 33-17-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 4. (a) As used in this section, "Indiana support enforcement tracking system (ISETS)" refers to the statewide automated system for the collection, disbursement, and distribution of child support payments established by the division of family and children.

(b) The clerk may receive funds:

- (1) in payment of judgments; and
- (2) ordered to be paid into the court by the judge.

(c) Except as provided in ~~subsection~~ **subsections (d) and (g)**, the clerk is liable, with his sureties, on his official bond for all funds received to any person who is entitled to demand and receive those funds from him.

(d) The clerk is not personally liable or liable in the clerk's official capacity on the clerk's official bond for funds received if the clerk:

- (1) through error or in accordance with the best information available to the clerk, disbursed the funds to a person the clerk reasonably believed to be entitled to receive the funds and to comply with a:
 - (A) child support order; or
 - (B) garnishment order;
- (2) inappropriately disbursed or misapplied child support funds, arising without the knowledge or approval of the clerk, that resulted from:
 - (A) an action by an employee of, or a consultant to, the division of family and children;
 - (B) an ISETS technological error; or

- (C) information generated by ISETS;
 - (3) disbursed funds that the clerk reasonably believed were available for disbursement but that were not actually available for disbursement;
 - (4) disbursed child support funds paid to the clerk by a personal check that was later dishonored by a financial institution; and
 - (5) did not commit a criminal offense as a part of the disbursement.
- (e) If the clerk improperly disburses funds in the manner described by subsection (d), the clerk shall do the following:
- (1) Deduct an amount equal to the amount of funds improperly disbursed from fees collected under IC 33-19-6-5.
 - (2) Credit each account from which funds were improperly disbursed with the amount of funds improperly disbursed under subsection (d).
 - (3) Notify the prosecuting attorney of the county of:
 - (A) the amount of the improper disbursement;
 - (B) the person from whom the amount of the improper disbursement should be collected; and
 - (C) any other information to assist the prosecuting attorney to collect the amount of the improper disbursement.
 - (4) Record each action taken under this subsection on a form prescribed by the state board of accounts.
- (f) If:
- (1) fees collected under IC 33-19-6-5 are credited to an account under subsection (e)(2) because a check or money order was dishonored by a financial institution or was the subject of a stop payment order; and
 - (2) a person subsequently pays to the clerk all or part of the amount of the check or money order that was dishonored or the subject of a stop payment order;

the clerk shall reimburse the account containing fees collected under IC 33-19-6-5 using the amount the person paid to the clerk.

(g) The clerk is not personally liable for the amount of a dishonored check, for penalties assessed against a dishonored check, or for financial institution charges relating to a dishonored check, if:

- (1) the check was tendered to the clerk for the payment of a:**
 - (A) fee;**
 - (B) court ordered payment; or**

(C) license; and

(2) the acceptance of the check was not an act or omission constituting gross negligence or an intentional disregard of the responsibilities of the office of clerk.

SECTION 11. IC 33-19-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 3. (a) The qualified municipality share to be distributed to each city and town maintaining a law enforcement agency that prosecutes at least fifty percent (50%) of its ordinance violations in a circuit, superior, ~~or county or municipal~~ court located in the county is three percent (3%) of the amount of fees collected under the following:

- (1) IC 33-19-5-1(a) (criminal costs fees).
- (2) IC 33-19-5-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-19-5-3(a) (juvenile costs fees).
- (4) IC 33-19-5-4(a) (civil costs fees).
- (5) IC 33-19-5-5(a) (small claims costs fees).
- (6) IC 33-19-5-6(a) (probate costs fees).
- (7) IC 33-19-6-16.2 (deferred prosecution fees).

(b) The county auditor shall determine the amount to be distributed to each city and town qualified under subsection (a) as follows:

STEP ONE: Determine the population of the qualified city or town.

STEP TWO: Add the populations of all qualified cities and towns determined under STEP ONE.

STEP THREE: Divide the population of each qualified city and town by the sum determined under STEP TWO.

STEP FOUR: Multiply the result determined under STEP THREE for each qualified city and town by the amount of the qualified municipality share.

(c) The county auditor shall semiannually distribute to each city and town described in subsection (a) the amount computed for that city or town under STEP FOUR of subsection (b).

SECTION 12. IC 34-28-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1. (a) An action to enforce a statute defining an infraction shall be brought in the name of the state of Indiana by the prosecuting attorney for the judicial circuit in which the infraction allegedly took place. **However, if the infraction allegedly took place on a public highway (as defined in IC 9-25-2-4) that runs on and along a common boundary shared by two (2) or more judicial circuits, a prosecuting attorney for any**

judicial circuit sharing the common boundary may bring the action.

(b) An action to enforce an ordinance shall be brought in the name of the municipal corporation. The municipal corporation need not prove that it or the ordinance is valid unless validity is controverted by affidavit.

(c) Actions under this chapter (or IC 34-4-32 before its repeal):

(1) shall be conducted in accordance with the Indiana Rules of Trial Procedure; and

(2) must be brought within two (2) years after the alleged conduct or violation occurred.

(d) The plaintiff in an action under this chapter must prove the commission of an infraction or ordinance violation by a preponderance of the evidence.

(e) The complaint and summons described in IC 9-30-3-6 may be used for any infraction or ordinance violation.

(f) The prosecuting attorney or the attorney for a municipal corporation may establish a deferral program for deferring actions brought under this section. Actions may be deferred under this section if:

(1) the defendant in the action agrees to conditions of a deferral program offered by the prosecuting attorney or the attorney for a municipal corporation;

(2) the defendant in the action agrees to pay to the clerk of the court an initial user's fee and monthly user's fee set by the prosecuting attorney or the attorney for the municipal corporation in accordance with IC 33-19-5-2(e);

(3) the terms of the agreement are recorded in an instrument signed by the defendant and the prosecuting attorney or the attorney for the municipal corporation;

(4) the defendant in the action agrees to pay court costs of twenty-five dollars (\$25) to the clerk of court if the action involves a moving traffic offense (as defined in IC 9-13-2-110); and

(5) the agreement is filed in the court in which the action is brought.

When a defendant complies with the terms of an agreement filed under this subsection (or IC 34-4-32-1(f) before its repeal), the prosecuting attorney or the attorney for the municipal corporation shall request the court to dismiss the action. Upon receipt of a request to dismiss an

action under this subsection, the court shall dismiss the action. An action dismissed under this subsection (or IC 34-4-32-1(f) before its repeal) may not be refiled.

SECTION 13. IC 34-30-2-144.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 144.5. IC 33-17-1-4. (Concerning the personal liability of circuit court clerks for dishonored checks.)**

SECTION 14. IC 34-30-2-152.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 152.4. IC 36-2-10-24. (Concerning the personal liability of county treasurers.)**

SECTION 15. IC 34-30-2-152.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 152.6. IC 36-2-11-7.5. (Concerning the personal liability of county recorders for dishonored checks.)**

SECTION 16. IC 35-32-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 1. (a)** Criminal actions shall be tried in the county where the offense was committed, except as otherwise provided by law.

(b) If a person committing an offense upon the person of another is located in one (1) county and his victim is located in another county at the time of the commission of the offense, the trial may be in either of the counties.

(c) If the offense involves killing or causing the death of another human being, the trial may be in the county in which the:

- (1) cause of death is inflicted;
- (2) death occurs; or
- (3) victim's body is found.

(d) If an offense is committed in Indiana and it cannot readily be determined in which county the offense was committed, trial may be in any county in which an act was committed in furtherance of the offense.

(e) If an offense is commenced outside Indiana and completed within Indiana, the offender may be tried in any county where any act in furtherance of the offense occurred.

(f) If an offense commenced inside Indiana is completed outside Indiana, the offender shall be tried in any county where an act in furtherance of the offense occurred.

(g) If an offense is committed on the portions of the Ohio or Wabash

Rivers where they form a part of the boundaries of this state, trial may be had in the county that is adjacent to the river and whose boundaries, if projected across the river, would include the place where the offense was committed.

(h) If an offense is committed at a place which is on or near a common boundary which is shared by two (2) or more counties and it cannot be readily determined where the offense was committed, then the trial may be had in any county sharing the common boundary.

(i) If an offense is committed on a public highway (as defined in IC 9-25-2-4) that runs on and along a common boundary shared by two (2) or more counties, the trial may be held in any county sharing the common boundary.

SECTION 17. IC 36-1-8-13 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 13. A unit that is unable to obtain payment of a dishonored check shall, not later than ninety (90) days after the check is initially received by the unit, refer the matter to the prosecuting attorney for the county where the dishonored check was received for prosecution.**

SECTION 18. IC 36-1-11-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 16. (a) This section applies to the following:**

(1) A person who ~~could have redeemed a tract under IC 6-1.1-25-1~~ who did not redeem the tract before a deed for the tract was issued to a county under ~~IC 6-1.1-25-4~~, **owes delinquent taxes, special assessments, penalties, interest, or costs directly attributable to a prior tax sale on a tract of real property listed under IC 6-1.1-24-1.**

(2) A person who is an agent of the person described in subdivision (1).

(b) A person subject to this section may not purchase, receive, or lease a tract ~~the person could have redeemed when the tract that~~ is offered in a sale, exchange, or lease under this chapter. ~~unless:~~

(1) ~~the county was issued a deed to the tract under IC 6-1.1-25-4 more than five (5) years before the tract is offered for sale, exchange, or lease under this chapter; or~~

(2) ~~the person pays the county treasurer an amount equal to the amount required to redeem the tract when the county was issued a deed for the tract under IC 6-1.1-25-4 before the sale, exchange, or lease under this chapter is executed by the county.~~

(c) If a person purchases, receives, or leases a tract that the person was not eligible to purchase, receive, or lease under this section, the sale, transfer, or lease of the property is void and the county retains the interest in the tract it possessed before the sale, transfer, or lease of the tract.

SECTION 19. IC 36-2-2-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 19. At its second regular meeting each year, the executive shall make an accurate statement of the county's receipts and expenditures during the preceding calendar year. The statement must include the name of and **total** compensation paid to each county officer, deputy, and employee. The executive shall post this statement at the courthouse door and two (2) other places in the county and shall publish it in the manner prescribed by IC 5-3-1.

SECTION 20. IC 36-2-10-24 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 24. A county treasurer is not personally liable for any act or omission occurring in connection with the performance of the county treasurer's official duties, unless the act or omission constitutes gross negligence or an intentional disregard of the responsibilities of the office of county treasurer.**

SECTION 21. IC 36-2-11-7.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 7.5. A county recorder is not personally liable for the amount of a dishonored check, for penalties assessed against a dishonored check, or for financial institution charges relating to a dishonored check, if:**

- (1) the check was tendered to the county recorder for the payment of a fee; and**
- (2) the acceptance of the check was not an act or omission constituting gross negligence or an intentional disregard of the responsibilities of the office of county recorder.**

SECTION 22. IC 36-4-8-15 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 15. Each city agency, board, commission, district, or other city entity shall file one (1) copy of that agency's, board's, commission's, district's, or entity's financial records with the city fiscal officer.**

SECTION 23. IC 36-5-4-14 IS ADDED TO THE INDIANA CODE

AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 14. Each town agency, board, commission, district, or other town entity shall file one (1) copy of that agency's, board's, commission's, district's, or entity's financial records with the town fiscal officer.**

SECTION 24. IC 36-5-6-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 8. (a) A clerk-treasurer may hire or contract with competent attorneys or legal research assistants on terms the clerk-treasurer considers appropriate.

(b) Appropriations for the salaries of attorneys and legal research assistants employed under this section shall be approved in the annual budget.

(c) Appropriations for the salaries of attorneys and legal research assistants employed under this section shall be approved in the annual budget and must be allocated to the clerk-treasurer for the payment of attorneys' and legal research assistants' salaries.

SECTION 25. IC 36-6-6-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 8. The legislative body shall keep a permanent record of its proceedings in a book furnished by the executive. The secretary of the legislative body shall, under the direction of the legislative body, record the **minutes of the** proceedings of each meeting in full and ~~sign the record before the adjournment of each meeting~~ **shall provide copies of the minutes to each member of the legislative body before the next meeting is convened. After the minutes are approved by the legislative body, the secretary of the legislative body shall place the minutes in the permanent record book.** The chairman of the legislative body shall retain the record in his custody.

SECTION 26. IC 36-6-6-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 12. **(a)** The legislative body may appropriate money for membership of the township in county, state, or national associations that:

- (1) are of a civic, educational, or governmental nature; and
- (2) have as a purpose the improvement of township governmental operations.

The township representatives may participate in the activities of these associations, and the legislative body may appropriate money to defray the expenses of township representatives in connection with these activities.

(b) Each representative of the township attending any meeting, conference, seminar, or convention approved by the township trustee shall be allowed reimbursement for all necessary and legitimate expenses incurred while representing the township. Expenses shall be paid to each representative in accordance with the township's reimbursement policy, which may include an established per diem rate, as recommended by the township trustee and adopted by the township legislative body.

SECTION 27. IC 36-8-9-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 3. (a) The board consists of three (3) commissioners appointed by the town legislative body. The commissioners must be of good moral character and legal residents of the town. Not more than two (2) of the commissioners may be of the same political party. All three (3) commissioners shall be appointed in January following the general or primary election at which the trustees' action is ratified as specified in the ordinance creating the board. One (1) commissioner serves for one (1) year, one (1) commissioner serves for two (2) years, and one (1) commissioner serves for three (3) years. On January 1 of each year one (1) commissioner shall be appointed to serve for a term of three (3) years. Each commissioner is subject to removal by the legislative body for any cause that the legislative body considers sufficient.

(b) After the initial appointment of the three (3) commissioners, the town legislative body may, by ordinance, increase the size of the board by providing for the appointment of two (2) additional commissioners. The commissioners must be of good moral character and legal residents of the town. The additional commissioners may not be members of the same political party. Each additional commissioner shall be appointed to serve for a term of three (3) years, however the initial appointment need not be for three (3) years if the town legislative body adopts, by ordinance, a staggered system for the terms of the additional members. The terms of additional members begin January 1 following the date of their appointment. Each commissioner appointed under this subsection is subject to removal by the legislative body for any cause that the legislative body considers sufficient.

(c) Before entering upon his duties, each commissioner shall take and subscribe an oath of office before the clerk of the county in which the town is located. Each commissioner shall also take and subscribe before the clerk the further oath or affirmation that, in each appointment or removal made by the board to or from the town police

department under this chapter, he will not appoint or remove a member because of the political affiliation of the person or for another cause or reason other than that of the fitness of the person. The oath and affirmation shall be recorded and placed among the records of the court.

(d) Each commissioner shall give bond in the penal sum of five thousand dollars (\$5,000), payable to the state and conditioned upon the faithful and honest discharge of his duties. The bond must be approved by the legislative body.

(e) The salary of the commissioners shall be fixed by the legislative body and is payable monthly out of the treasury of the town.

SECTION 28. IC 36-8-9-7 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE UPON PASSAGE]: **Sec. 7. (a) The board may provide that all appointments to the police department are probationary for a period not to exceed one (1) year.**

(b) If the board finds, upon the recommendation of the chief of the department during the probationary period, that the conduct or capacity of a member is not satisfactory, the board shall notify the member in writing that the member is being suspended or that the member will not receive a permanent appointment.

(c) If a member is notified that the member will not receive a permanent appointment, the member's employment immediately ceases. Otherwise, at the expiration of the probationary period, the member is considered regularly employed.

SECTION 29. IC 36-9-23-33 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 33. (a)** An officer described in subsection (b) may defer enforcing the collection of unpaid fees and penalties assessed under this chapter until the unpaid fees and penalties have been due and unpaid for at least ninety (90) days.

(b) Except as provided in subsection (1), the officer charged with the collection of fees and penalties assessed under this chapter shall enforce their payment. **As often as the officer determines is necessary in a calendar year, the officer shall not more than four (4) times in any calendar year** prepare a list of the delinquent fees and penalties that are enforceable under this section, which must include:

- (1) the name or names of the owner or owners of each lot or parcel of real property on which fees are delinquent;
- (2) the description of the premises, as shown by the records of the

county auditor; and

(3) the amount of the delinquent fees, together with the penalty.

(c) The officer shall record a copy of each list with the county recorder who shall charge a fee for recording it in accordance with the fee schedule established in IC 36-2-7-10. The officer shall then mail to each property owner on the list a notice stating that a lien against the owner's property has been recorded. Except for a county having a consolidated city, a service charge of five dollars (\$5), which is in addition to the recording fee charged under this subsection and under subsection (f), shall be added to each delinquent fee that is recorded.

(d) This subsection applies only to a county containing a consolidated city. Using the lists prepared under subsection (b) and recorded under subsection (c), the officer shall certify to the county auditor a list of the liens that remain unpaid according to a schedule agreed upon by the county treasurer and the officer for collection with the next cycle's property tax installment. The county and its officers and employees are not liable for any material error in the information on the list.

(e) Using the lists prepared under subsection (b) and recorded under subsection (c), after September 1 of the preceding calendar year and before September 1 of the current calendar year, the officer shall before December 15 of each year certify to the county auditor a list of the liens that remain unpaid for collection in the next May. The county and its officers and employees are not liable for any material error in the information on this list.

(f) The officer shall release any recorded lien when the delinquent fees, penalties, service charges, and recording fees have been fully paid. The county recorder shall charge a fee for releasing the lien in accordance with IC 36-2-7-10.

(g) On receipt of the list under subsection (d) or (e), the county auditor of each county (excluding a county having a consolidated city) shall add a fifteen dollar (\$15) certification fee for each lot or parcel of real property on which fees are delinquent, which fee is in addition to all other fees and charges. The county auditor shall immediately enter on the tax duplicate for the municipality the delinquent fees, penalties, service charges, recording fees, and certification fees, which are due no later than the due date of the next May installment of property taxes. However, in a county having a consolidated city, the delinquent fees, penalties, service charges, and recording fees are due not later than the due date of the next installment of property taxes. The county treasurer

shall then include any unpaid charges for the delinquent fee, penalty, service charge, recording fee, and certification fee to the owner or owners of each lot or parcel of property, at the time the next cycle's property tax installment is billed.

(h) After the date of certification in each year, the officer may not collect or accept delinquent fees, penalties, service charges, recording fees, or certification fees from property owners whose property has been certified to the county auditor. This subsection does not apply to a county containing a consolidated city.

(i) If a delinquent fee, penalty, service charge, recording fee, and certification fee are not paid, they shall be collected by the county treasurer in the same way that delinquent property taxes are collected.

(j) At the time of each semiannual tax settlement, the county treasurer shall certify to the county auditor all fees, charges, and penalties that have been collected. The county auditor shall deduct the service charges and certification fees collected by the county treasurer and pay over to the officer the remaining fees and penalties due the municipality. The county treasurer shall retain the service charges and certification fees that have been collected, and shall deposit them in the county general fund.

(k) Fees, penalties, and service charges that were not recorded before a recorded conveyance shall be removed from the tax roll for a purchaser who, in the manner prescribed by section 32(d) of this chapter, files a verified demand with the county auditor.

(l) A board may write off a fee or penalty under subsection (a) that is for less than forty dollars (\$40).

SECTION 30. IC 6-1.1-12-8 IS REPEALED [EFFECTIVE JULY 1, 2000].

SECTION 31. [EFFECTIVE UPON PASSAGE] **(a) This SECTION applies to a township having a population of more than six hundred (600) but less than six hundred thirty-five (635) located in a county having a population of more than twelve thousand six hundred (12,600) but less than thirteen thousand (13,000).**

(b) Notwithstanding IC 36-1-8-4, a township may transfer eight thousand two hundred dollars (\$8,200) from the township's fire fund to the township's general fund. The township is not required to return the money to the fire fund.

(c) A township may reduce the maximum permissible levy for the township's fire fund under IC 6-1.1-18.5 by four thousand dollars (\$4,000). The township may increase the maximum permissible levy for the township's general fund under

IC 6-1.1-18.5 by four thousand dollars (\$4,000).

(d) This SECTION applies to property taxes first due and payable after December 31, 2000.

(e) This SECTION expires December 31, 2001.

SECTION 32. An emergency is declared for this act.

P.L.99-2000

[H.1155. Approved March 16, 2000.]

AN ACT to amend the Indiana Code concerning agriculture and animals.

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

SECTION 1. IC 15-1-1.5-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 0.5. As used in this chapter, "barn" refers to the center for agricultural science and heritage established by IC 15-1.5-10.5-3.**

SECTION 2. IC 15-1-1.5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. The committee shall do the following:

- (1) Serve as liaison between the commission, **the board of trustees of the barn**, the board, and the general assembly.
- (2) Review policies affecting the activities of the commission, **the barn**, the state fair, the facilities at the fairgrounds, and the property owned by the commission.
- (3) Provide long range guidance for the commission, **the board of trustees of the barn**, and the board.
- (4) Review annually the commission's, **the board of trustees of the barn's**, and the board's budgets and other accounts and report financial conditions to the legislative council. Further advise the budget committee regarding appropriations and other financial matters concerning the commission, **the board of trustees of the barn**, and the board.
- (5) Propose, review, and make recommendations concerning legislation affecting the commission, **the barn**, and the board.

SECTION 3. IC 15-1-1.5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) The commission or board shall provide any information relating to the operation of the commission, **the board of trustees of the barn**, or board requested by the committee.

(b) The legislative services agency shall provide staff for the committee.

SECTION 4. IC 15-1.5-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 9. ~~Before March 1 of~~ **At the first meeting** each year ~~the commission shall report to of the Indiana state fair advisory commission committee~~ established under IC 15-1-1.5-4, **the commission shall report** the following:

- (1) The activities of the commission during the previous calendar year.
- (2) The financial condition of the commission for the commission's most recently completed fiscal year.
- (3) The commission's plans for the current calendar year.

SECTION 5. IC 15-1.5-10.5-12 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 12. At the first meeting each year of the state fair advisory committee established by IC 15-1-1.5-4, the trustees shall report the following:**

- (1) The activities of the barn during the previous calendar year.**
- (2) The financial condition of the barn for the barn's most recently completed fiscal year.**
- (3) The board of trustees' plans for the barn for the current calendar year.**

SECTION 6. **An emergency is declared for this act.**

P.L.100-2000
[H.1197. Approved March 16, 2000.]

AN ACT concerning human services.

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

SECTION 1. [EFFECTIVE UPON PASSAGE] (a) The office of the secretary of family and social services shall develop and submit to the federal Health Care Financing Administration proposals to do the following:

- (1) Fund adult foster care and assisted living services through the Medicaid waiver program.**
- (2) Expand adult day care services available through the aged and disabled Medicaid waiver.**

(b) The proposals under subsection (a) must be reviewed by the community and home options to institutional care for the elderly and disabled (CHOICE) board established under IC 12-10-11 before the proposals are submitted to the federal Health Care Financing Administration regarding the following:

- (1) The definitions of adult foster care and assisted living.**
- (2) The number of individuals to be served by each waiver.**
- (3) The schedule of services to be delivered to individuals served by each waiver.**
- (4) Consumer eligibility standards established for each waiver.**
- (5) The means for expanding adult day care services.**
- (6) The number of individuals to be served by expanded adult day care services.**
- (7) Administrative oversight standards for each waiver described in this SECTION.**

(c) The office of the secretary of family and social services must receive input from affected providers and consumers when drafting the language of applications for Medicaid waivers described in this SECTION.

(d) The office of the secretary of family and social services may submit the proposals described in this SECTION to the federal Health Care Financing Administration as amendments to existing waivers.

(e) The proposals described in this SECTION must be submitted to the federal Health Care Financing Administration before October 1, 2000.

(f) The office of the secretary of family and social services shall report to the legislative council, the governor, and the CHOICE board before January 1, 2001, regarding implementation of the provisions of this SECTION.

(g) This SECTION expires January 1, 2002.

SECTION 2. An emergency is declared for this act.

P.L.101-2000

[H.1202. Approved March 16, 2000.]

AN ACT to amend the Indiana Code concerning human services.

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

SECTION 1. IC 12-20-20-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 1. (a) If a township trustee, as administrator of poor relief, grants poor relief to an indigent individual or to any other person or agency on a township poor relief order as provided by law or obligates the township for an item properly payable from poor relief money, the claim against the township must be:

- (1) itemized and sworn to as provided by law;
- (2) accompanied by the original township poor relief order, which must be itemized and signed; and
- (3) checked with the records of the township trustee, as administrator of poor relief, and audited and certified by the township trustee.

(b) This subsection applies to a township having a population of less than twenty thousand (20,000). This subsection also applies to a township having a population of at least twenty thousand (20,000) that is not subject to subsection (c). After a poor relief claim is certified by a township trustee under subsection (a), the poor relief claim, with the original township poor relief order attached, must be filed with the county auditor for payment in the following manner:

- (1) The county auditor shall carefully audit the claim.
- (2) If the claim is correct and has been properly approved by the township trustee as administrator of poor relief, the county auditor shall pay the claim from:
 - (A) any balance standing to the credit of the township against which the claim is filed; or
 - (B) any other available fund from which advancements can be made to the township for that purpose.
- (3) The county auditor shall pay poor relief claims not less than one (1) time monthly when other county claims are usually paid.
- (4) The county auditor, when authorized to pay claims directly to vendors, shall pay a claim within forty-five (45) days.

(c) This subsection applies to a township having a population of at least twenty thousand (20,000) where the board of commissioners of a county not containing a consolidated city or the city-county council of a county containing a consolidated city by resolution authorizes the township trustee to pay poor relief claims in the manner provided in this subsection. If a resolution is so adopted and if the township trustee agrees with this procedure, then

(b) The township trustee shall pay claims against the township for poor relief in the same manner that other claims against the township are paid. The township trustee, when authorized to pay claims directly to vendors, shall pay a claim within forty-five (45) days. The township trustee shall pay the claim from:

- (1) any balance standing to the credit of the township against which the claim is filed; or
- (2) from any other available fund from which advancements can be made to the township for that purpose.

SECTION 2. IC 12-20-20-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 2. (a) This subsection applies to a township that is subject to section 1(b) of this chapter. If money is not available for the payment of poor relief claims under section 1 of this chapter, the board of commissioners shall at once notify the appropriate township trustee and township board of that fact. The township board may then appeal to borrow money under IC 12-20-24.

(b) This subsection applies to a township that is subject to section 1(c) of this chapter. If money is not available for the payment of poor relief claims under section 1 of this chapter, the township board shall appeal to borrow money under IC 12-20-24.

~~(c)~~ **(b) This subsection does not apply to a county having a consolidated city.** If the township board does not appeal to borrow money under IC 12-20-24 or if an appeal fails, the board of commissioners ~~shall~~ **may** borrow money or otherwise provide the money. **If the county commissioners determine to borrow the money or otherwise provide the money,** the county fiscal body shall promptly pass necessary ordinances and make the necessary appropriations to enable this to be done, after determining whether to borrow money by any of the following:

- (1) A temporary loan against taxes levied and in the process of collection.
- (2) The sale of county poor relief bonds or other county obligations.
- (3) Any other lawful method of obtaining money for the payment of poor relief claims.

(c) This subsection applies only to a county having a consolidated city. If a township board does not appeal to borrow money under IC 12-20-24 or if an appeal fails, the board of commissioners shall borrow money or otherwise provide the money. The county fiscal body shall promptly pass necessary ordinances and make the necessary appropriations to enable this to be done, after determining whether to borrow money by any of the following methods:

- (1) A temporary loan against taxes levied and in the process of collection.**
- (2) The sale of county poor relief bonds or other county obligations.**
- (3) Any other lawful method of obtaining money for the payment of poor relief claims.**

SECTION 3. IC 12-20-21-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 3. (a) A township trustee and township board may levy a specific tax for the purpose of providing money for the payment of poor relief expenses in the following year. The tax may be sufficient to meet the entire requirement of the township in the following year or the part that is determined to be proper.

(b) If

- (1) a tax levy is established under IC 12-2-1-32 (before its repeal) or subsection (a); and
- (2) the township is not subject to IC 12-20-20-1(c);

all proceeds derived from the tax levy shall be retained by the county treasurer and shall be credited by the county auditor to the township entitled to the credit. The proceeds of the tax levy are the property of the township levying the tax. The county and all officers of the county shall keep proceeds free and available for the payment of poor relief obligations of the township levying the tax. The funds are continuing funds and do not revert to any other fund at the end of the year.

(c) If:

(1) a tax levy is established under ~~IC 12-2-1-32 (before its repeal)~~ or subsection (a), and

(2) ~~the township is subject to IC 12-20-20-1(c);~~

all proceeds derived from the tax levy shall be distributed to the township at the same time and in the same manner as proceeds from other property tax levies are distributed to the township. The proceeds of the tax levy shall be held by the township in its township poor relief account free and available for the payment of poor relief obligations of the township. The funds are continuing funds and do not revert to any other fund at the end of the year.

SECTION 4. IC 12-20-21-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 4. If the board of commissioners determines from the ~~estimated advancements of quarterly reports filed by the township trustee under IC 12-20-21-5~~ with the county auditor and the levies made by the respective townships for poor relief purposes that there will be insufficient money in the ~~county general township poor relief~~ fund to provide free and available money during the following year for estimated advancements to townships for poor relief purposes on the basis of the total costs of poor relief granted by the township trustees, as administrators of poor relief, for the previous twelve (12) months:

(1) the board of commissioners may include estimates for the advancements in the county general fund budget;

(2) the county fiscal body may appropriate for the advancement in the budget and levy as adopted by the county fiscal body; and

(3) the state board of tax commissioners shall include that amount in the final county general fund levy.

SECTION 5. IC 12-20-21-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 5. The township trustee of a township ~~that is subject to IC 12-20-20-1(c)~~ shall supply the county auditor quarterly with information that the auditor

(1) ~~has for townships that are subject to IC 12-20-20-1(b); and~~

(2) needs to comply with this chapter.

SECTION 6. IC 12-20-22-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 2. (a) Copies of all township budgets for current poor relief shall, as finally adopted and approved, be placed on file in the office of the county auditor. If an additional appropriation for current poor relief is made by a township:

- (1) a certified copy of the action of the township board in making the additional appropriation; and
- (2) a certified copy of the order of the state board of tax commissioners approving the additional appropriation;

shall be filed in the office of the county auditor.

(b) A ~~county auditor or~~ a township trustee may not pay any poor relief order or claim in excess of the amount appropriated for current poor relief purposes, except as otherwise provided by law.

SECTION 7. IC 12-20-23-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 5. When giving notice of a special session of the county fiscal body for the purpose of considering making a loan under this chapter, the county auditor shall include in the notice a statement of the estimated amounts required by ~~each~~ the township and the period covered by the estimate. The township trustee of a township ~~that is subject to IC 12-20-20-1(c)~~ **seeking the loan** shall supply the county auditor with information that the auditor

- (1) ~~has for townships that are subject to IC 12-20-20-1(b); and~~
- (2) needs to comply with this section.

SECTION 8. IC 12-20-24-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 1. (a) In addition to the other methods of poor relief financing provided by this article, if

- (1) a ~~county auditor for a township that is subject to IC 12-20-20-1(b); or~~
- (2) a township trustee for a township ~~that is subject to IC 12-20-20-1(c);~~

determines that a particular township's poor relief account will be exhausted before the end of a fiscal year, ~~the county auditor or~~ the township trustee shall notify the township board of that determination.

(b) After receiving notice under subsection (a) that a township's poor relief account will be exhausted before the end of a fiscal year, the township board ~~may, if the township is subject to IC 12-20-20-1(b); and shall if the township is subject to IC 12-20-20-1(c);~~ appeal for the right

to borrow money on a short term basis to fund poor relief services in the township. In the appeal the township board must do the following:

- (1) Show that the amount of money contained in the township poor relief account will not be sufficient to fund services required to be provided within the township by this article.
- (2) Show the amount of money that the board estimates will be needed to fund the deficit.
- (3) Indicate a period, not to exceed five (5) years, during which the township would repay the loan.

SECTION 9. IC 12-20-24-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 5. (a) If upon appeal under ~~IC 12-2-4.5-4 (before its repeal)~~ or section 4 of this chapter the state board of tax commissioners determines that a township board should be allowed to borrow money under ~~IC 12-2-4.5-4 (before its repeal)~~ or this chapter, the state board of tax commissioners shall order the ~~county auditor~~ **township trustee** to borrow the money from a financial institution on behalf of the township board and to deposit the money borrowed in the township's poor relief account.

(b) If upon appeal under ~~IC 12-2-4.5-4 (before its repeal)~~ or section 4 of this chapter the state board of tax commissioners determines that the township board should not be allowed to borrow money, the board may not do so for that year.

SECTION 10. IC 12-20-24-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 8. (a) If a township board:

- (1) appeals before August 1 for permission to borrow money;
- (2) receives permission from the board of commissioners, county council, or state board of tax commissioners to borrow money before November 1 of that year; and
- (3) borrows money under ~~IC 12-2-4.5 (before its repeal)~~ or this chapter;

the ~~county auditor~~ **township board** shall levy a property tax beginning in the next succeeding year and continuing for the term of the loan in an amount each year that will be sufficient to pay the principal and interest due on the loan for the year.

(b) If a township board:

- (1) appeals after August 1 for permission to borrow money;
- (2) receives permission from the board of commissioners, county council, or state board of tax commissioners to borrow money;

and

(3) borrows money in the year of the appeal under ~~IC 12-2-4.5~~
(before its repeal) or this chapter;

the ~~county auditor township board~~ shall levy a property tax beginning in the second succeeding year and continuing for the term of the loan in an amount each year that will be sufficient to pay the principal and interest due on the loan for the year.

(c) The property taxes levied under ~~IC 12-2-4.5-8~~ (before its repeal) or this section shall be retained by the ~~county treasurer township trustee~~ and applied by the ~~county auditor township trustee~~ to retire the debt.

SECTION 11. THE FOLLOWING ARE REPEALED [EFFECTIVE JANUARY 1, 2001]: IC 12-20-20-3; IC 12-20-22-4; IC 12-20-21-1.

SECTION 12. [EFFECTIVE JANUARY 1, 2001] (a) For each township contained in a particular county, the county auditor shall determine the amount, if any, of the unencumbered balance held by the county in the township's poor relief account as of January 1, 2001. The county shall transfer the amount determined for each township to the respective township not later than January 10, 2001.

(b) This SECTION expires January 11, 2001.



P.L.102-2000

[H.1215. Approved March 16, 2000.]

AN ACT to amend the Indiana Code concerning professions and occupations.

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

SECTION 1. IC 25-14-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. (a) **Except as permitted under this chapter**, it ~~shall hereafter be~~ is unlawful for any person to practice dentistry in Indiana who ~~has not first obtained a license so to do as hereinafter provided:~~ **is not licensed under this chapter.**

(b) **This chapter does not prohibit:**

- (1) a hospital;**
- (2) a public health clinic;**
- (3) a federally qualified health center;**
- (4) a rural health center;**
- (5) a charitable health clinic;**
- (6) a governmental entity;**
- (7) a contractor or subcontractor of a governmental entity; or**
- (8) another entity specified by a rule of the board;**

from providing dental health services if the dental health services are provided by dentists (licensed under this chapter) or dental hygienists (licensed under IC 25-13).

SECTION 2. IC 25-14-1-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 23. (a) ~~Any~~ **A** person ~~shall be said to be~~ **is** practicing dentistry within the meaning of this chapter ~~who~~ **if the person does any of the following:**

- (1) Uses the word "dentist" or "dental surgeon", the letters "D.D.S." or "D.M.D.", or other letters or titles in connection with dentistry.
- (2) Directs and controls the treatment of patients within a place where dental services are performed.
- (3) Advertises or permits to be advertised by sign, card, circular, handbill, newspaper, radio, or otherwise that he can or will attempt to perform dental operations of any kind.
- (4) Offers to diagnose or professes to diagnose or treats or professes to treat any of the lesions or diseases of the human oral cavity, teeth, gums, or maxillary or mandibular structures.
- (5) Extracts human teeth or corrects malpositions of the teeth or jaws.
- (6) Administers dental anesthetics.
- (7) Uses x-ray pictures for dental diagnostic purposes.
- (8) Makes impressions or casts of any oral tissues or structures for the purpose of diagnosis or treatment thereof or for the construction, repair, reproduction, or duplication of any prosthetic device to alleviate or cure any oral lesion or replace any lost oral structures, tissue, or teeth. ~~or~~
- (9) Advertises to the public by any method, except trade and professional publications, to furnish, supply, construct, reproduce, repair, or adjust any prosthetic denture, bridge, appliance, or other structure to be worn in the human mouth.
- (10) Is the employer of a dentist who is hired to provide dental services.**

(11) Directs or controls the use of dental equipment or dental material while the equipment or material is being used to provide dental services. However, a person may lease or provide advice or assistance concerning dental equipment or dental material if the person does not restrict or interfere with the custody, control, or use of the equipment or material by the dentist. This subdivision does not prevent a dental hygienist who is licensed under IC 25-13 from owning dental equipment or dental materials within the dental hygienist's scope of practice.

(12) Directs, controls, or interferes with a dentist's clinical judgment.

(13) Exercises direction or control over a dentist through a written contract concerning the following areas of dental practice:

(A) The selection of a patient's course of treatment.

(B) Referrals of patients, except for requiring referrals to be within a specified provider network, subject to the exceptions under IC 27-13-36-5.

(C) Content of patient records.

(D) Policies and decisions relating to refunds, if the refund payment would be reportable under federal law to the National Practitioner Data Bank, and warranties.

(E) The clinical content of advertising.

(F) Final decisions relating to the employment of dental office personnel.

However, this subdivision does not prohibit a person from providing advice or assistance concerning the areas of dental practice referred to in this subdivision or an insurer (as defined in IC 27-1-26-1) from carrying out the applicable provisions of IC 27 under which the insurer is licensed.

However, a person does not have to be a dentist to be a manufacturer of dental prostheses.

(b) In addition to subsection (a), a person is practicing dentistry who directly or indirectly by any means or method furnishes, supplies, constructs, reproduces, repairs, or adjusts any prosthetic denture, bridge, appliance, or any other structure to be worn in the human mouth and delivers the resulting product to any person other than the duly licensed dentist upon whose written work authorization the work was performed. A written work authorization shall include the following:

- (1) The name and address of the dental laboratory to which it is directed.
- (2) The case identification.
- (3) A specification of the materials to be used.
- (4) A description of the work to be done and, if necessary, diagrams thereof.
- (5) The date of issuance of the authorization.
- (6) The signature and address of the licensed dentist or other dental practitioner by whom the work authorization is issued.

A separate work authorization shall be issued for each patient of the issuing licensed dentist or other dental practitioner for whom dental technological work is to be performed.

(c) This section shall not apply to those procedures which a legally licensed and practicing dentist may delegate to competent office personnel as to which procedures the dentist exercises supervision and responsibility. Delegated procedures may not include either:

- (1) those procedures which require professional judgment and skill such as diagnosis, treatment planning, and the cutting of hard or soft tissues or any intraoral impression which would lead to the fabrication of an appliance, which, when worn by the patient, would come in direct contact with hard or soft tissues and which could result in tissue irritation or injury; or
- (2) those procedures allocated under IC 25-13-1 to licensed dental hygienists.

This chapter shall not prevent dental students from performing dental operations under the supervision of competent instructors within the dental school or a university recognized by the board or in any public clinic under the supervision of the authorized superintendent of such clinic authorized under the authority and general direction of the board of health or school board of any city or town in Indiana.

(d) Licensed pharmacists of this state may fill prescriptions of licensed dentists of this state for any drug necessary in the practice of dentistry.

SECTION 3. [EFFECTIVE UPON PASSAGE] (a) Notwithstanding IC 25-14-1-27.1, the state board of dental examiners may classify a dental license as inactive if the board receives written notification from a licensed dentist stating that the licensed dentist retired from the practice of dentistry in Indiana after July 1, 1990, and before July 1, 1995, and the dentist can demonstrate to the board that the dentist is fit to resume the

practice of dentistry.

(b) This SECTION expires July 1, 2000.

SECTION 4. An emergency is declared for this act.

P.L.103-2000

[H.1221. Approved March 16, 2000.]

AN ACT to amend the Indiana Code concerning local government.

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

SECTION 1. IC 36-7-4-208, AS AMENDED BY P.L.216-1999, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 208. (a) ADVISORY. The county plan commission consists of nine (9) members, as follows:

- (1) One (1) member appointed by the county executive from its membership.
- (2) One (1) member appointed by the county fiscal body from its membership.
- (3) The county surveyor or a qualified deputy surveyor appointed by the surveyor.
- (4) The county agricultural extension educator.
- (5) **Five (5) members appointed in accordance with one (1) of the following:**

(A) Four (4) citizen members, of whom no more than two (2) may be of the same political party and all four (4) of whom must be residents of unincorporated areas of the county, appointed by the county executive. ~~(6)~~ **Also** one (1) township trustee, who must be a resident of an unincorporated area of the county, appointed by the county executive upon the recommendation of the township trustees whose townships are within the jurisdiction of the county plan commission.

(B) Five (5) citizen members, of whom not more than three (3) may be of the same political party, and all five (5) of whom must be residents of unincorporated areas of the county appointed by the county executive.

If a county executive changes the plan commission from

having members described in clause (B) to having members described in clause (A), the county executive shall appoint a township trustee to replace the first citizen member whose term expires and who belongs to the same political party as the township trustee. Each member appointed to the commission is entitled to receive compensation for mileage at the same rate and the same compensation for services as a member of a county executive, a member of a county fiscal body, a county surveyor, or an appointee of a county surveyor receives for serving on the commission, as set forth in section 222.5 of this chapter.

(b) **ADVISORY.** The metropolitan plan commission consists of nine (9) members, as follows:

(1) One (1) member appointed by the county legislative body from its membership.

(2) One (1) member appointed by the second class city legislative body from its membership.

(3) Three (3) citizen members who are residents of unincorporated areas of the county, of whom no more than two (2) may be of the same political party, appointed by the county legislative body. One (1) of these members must be actively engaged in farming.

(4) Four (4) citizen members, of whom no more than two (2) may be of the same political party, appointed by the second class city executive. One (1) of these members must be from the metropolitan school authority or community school corporation and a resident of that school district, and the other three (3) members must be residents of the second class city.

(c) **AREA.** When there are six (6) county representatives, they are:

(1) one (1) member appointed by the county executive from its membership;

(2) one (1) member appointed by the county fiscal body from its membership;

(3) the county superintendent of schools, or if that office does not exist, a representative appointed by the school corporation superintendents within the jurisdiction of the area plan commission;

(4) the county agricultural extension educator;

(5) one (1) citizen member who is a resident of the unincorporated area of the county, appointed by the county executive; and

(6) one (1) citizen member who is a resident of the unincorporated area of the county, appointed by the county fiscal body.

When there are five (5) county representatives, they are the representatives listed in subdivisions (3), (4), (5), and (6) of this subsection and the county surveyor.

(d) AREA. The appointing authority may appoint an alternate member to participate on a commission established under section 204 of this chapter in a hearing or decision if the regular member it has appointed is unavailable. An alternate member shall have all of the powers and duties of a regular member while participating on the commission.

SECTION 2. IC 36-8-9-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 3. (a) The board consists of three (3) commissioners appointed by the town legislative body. The commissioners must be of good moral character and legal residents of the town. Not more than two (2) of the commissioners may be of the same political party. All three (3) commissioners shall be appointed in January following the ~~general or primary election at which the trustees' action is ratified.~~ **adoption of the enabling ordinance by the legislative body of the town.** One (1) commissioner serves for one (1) year, one (1) commissioner serves for two (2) years, and one (1) commissioner serves for three (3) years. On January 1 of each year one (1) commissioner shall be appointed to serve for a term of three (3) years. Each commissioner is subject to removal by the legislative body for any cause that the legislative body considers sufficient.

(b) After the initial appointment of the three (3) commissioners, the town legislative body may, by ordinance, increase the size of the board by providing for the appointment of two (2) additional commissioners. The commissioners must be of good moral character and legal residents of the town. The additional commissioners may not be members of the same political party. Each additional commissioner shall be appointed to serve for a term of three (3) years, however the initial appointment need not be for three (3) years if the town legislative body adopts, by ordinance, a staggered system for the terms of the additional members. The terms of additional members begin January 1 following the date of their appointment. Each commissioner appointed under this subsection is subject to removal by the legislative body for any cause that the legislative body considers sufficient.

(c) Before entering upon his duties, each commissioner shall take

and subscribe an oath of office before the clerk of the county in which the town is located. Each commissioner shall also take and subscribe before the clerk the further oath or affirmation that, in each appointment or removal made by the board to or from the town police department under this chapter, he will not appoint or remove a member because of the political affiliation of the person or for another cause or reason other than that of the fitness of the person. The oath and affirmation shall be recorded and placed among the records of the court.

(d) Each commissioner shall give bond in the penal sum of five thousand dollars (\$5,000), payable to the state and conditioned upon the faithful and honest discharge of his duties. The bond must be approved by the legislative body.

(e) The salary of the commissioners shall be fixed by the legislative body and is payable monthly out of the treasury of the town.

SECTION 3. [EFFECTIVE SEPTEMBER 30, 1999 (RETROACTIVE)] **(a) This SECTION applies to a county plan commission that did not have a township trustee appointed to the plan commission as a member in accordance with IC 36-7-4-208(a)(5) on or after October 1, 1999.**

(b) The acts of the plan commission taken after September 30, 1999, and before the effective date of IC 36-7-4-208, as amended by this act, are legalized.

SECTION 4. **An emergency is declared for this act.**

P.L.104-2000

[H.1239. Approved March 16, 2000.]

AN ACT to amend the Indiana Code concerning criminal law and procedure.

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

SECTION 1. IC 35-41-1-4.3 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2000]: **Sec. 4.3. (a) "Bomb" means an explosive or incendiary device designed to release:**

(1) destructive materials or force; or
 (2) dangerous gases;
 that is detonated by impact, proximity to an object, a timing mechanism, a chemical reaction, ignition, or other predetermined means.

(b) The term does not include the following:

- (1) A firearm (as defined in IC 35-47-1-5) or the ammunition or components for handloading ammunition for a firearm.
- (2) Fireworks regulated under IC 22-11-14.
- (3) Boating, railroad, and other safety flares.
- (4) Propellants used in model rockets or similar hobby activities.
- (5) Commercially manufactured black powder in quantities not to exceed fifty (50) pounds, percussion caps, safety and pyrotechnic fuses, quills, quick and slow matches, and friction primers intended to be used solely for sporting, recreational, or cultural purposes in antique firearms or antique devices.

SECTION 2. IC 35-41-1-6.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 6.6. "Dangerous gas", for purposes of IC 35-41-1-4.3, means a toxic chemical or its precursors that through chemical action or properties on life processes cause death or permanent injury to human beings. The term does not include the following:

- (1) Riot control agents, smoke, and obscuration materials or medical products that are manufactured, possessed, transported, or used in accordance with the laws of the United States and of this state.
- (2) Tear gas devices designed to be carried on or about the person that contain not more than one-half (1/2) ounce of the chemical.

SECTION 3. IC 35-47-5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 8. A person who owns or possesses:

- (1) a machine gun; or
- (2) a bomb; ~~loaded with either explosives or dangerous gases;~~
 commits a Class C felony.

SECTION 4. IC 35-47-5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 9. A person who:

- (1) operates a loaded machine gun; or
- (2) hurls, or drops, **places, or detonates** a bomb; ~~loaded with either explosives or dangerous gases;~~

commits a Class B felony.

SECTION 5. IC 35-47-5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 10. The provisions of sections 8 or 9 of this chapter shall not be construed to apply to any of the following:

- (1) Members of the military or naval forces of the United States, National Guard of Indiana, or Indiana State Guard, when on duty or practicing.
- (2) Machine guns or bombs kept for display as relics and which are rendered harmless and not usable.
- (3) Any of the law enforcement officers of this state or the United States while acting in the furtherance of their duties.
- (4) Persons lawfully engaged in the display, testing, or use of fireworks.
- (5) Agencies of state government.
- (6) Persons permitted by law to engage in the business of manufacturing, assembling, conducting research on, or testing machine guns, bombs, airplanes, tanks, armored vehicles, or ordnance equipment or supplies while acting within the scope of such business.
- (7) Persons possessing, or having applied to possess, machine guns under applicable United States statutes. Such machine guns must be transferred as provided in this article.
- (8) Persons lawfully engaged in the manufacture, transportation, distribution, use, or possession of any material, substance, or device for the sole purpose of industrial, agricultural, mining, construction, educational, or any other lawful use.**

P.L.105-2000

[H.1247. Approved March 16, 2000.]

AN ACT to amend the Indiana Code concerning agriculture and animals.

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

SECTION 1. IC 15-6-4 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000 (RETROACTIVE)]:

Chapter 4. Indiana Dairy Industry Development Law

Sec. 1. As used in this chapter, "board" refers to the Indiana dairy industry development board established by section 9 of this chapter.

Sec. 2. As used in this chapter, "commercial use" means sale for:

- (1) retail consumption;
- (2) resale; or
- (3) processing for resale.

Sec. 3. As used in this chapter, "commissioner" refers to the commissioner of agriculture or the commissioner's designee.

Sec. 4. As used in this chapter, "milk" means any class of milk produced by dairy animals in Indiana.

Sec. 5. As used in this chapter, "person" means an individual, a partnership, a limited liability company, a public or private corporation, a political subdivision (as defined in IC 36-1-2-13), a cooperative, a society, an association, or a fiduciary.

Sec. 6. As used in this chapter, "producer" means a person engaged in the production of milk in Indiana for commercial use, including a producer-processor.

Sec. 7. As used in this chapter, "producer-processor" means a producer who processes and markets the producer's own milk.

Sec. 8. As used in this chapter, "qualified program" means a state or regional dairy product promotion, research, or nutrition education program that:

- (1) is certified under 7 CFR 1150.153, as amended; and
- (2) meets the following requirements:
 - (A) Conducts activities (as defined in 7 CFR 1150.114,

1150.115, and 1150.116) intended to increase consumption of milk and dairy products.

(B) Is financed primarily by producers, either individually or through cooperative associations.

(C) Does not use a private brand or trade name in advertising and promotion of dairy products unless the national dairy promotion and research board established under 7 CFR 1150.131 and the United States Secretary of Agriculture concur that the requirement should not apply.

(D) Certifies to the United States Secretary of Agriculture that a request from a producer for a refund under the program will be honored by forwarding the part of the refund equal to the amount of credit that otherwise would be applicable to the program under 7 CFR 1150.152(c) to either the national dairy promotion and research board or a qualified program designated by the producer.

(E) Does not use program funds to influence governmental policy or action.

Sec. 9. (a) The Indiana dairy industry development board is established.

(b) The board consists of:

(1) at least nine (9); and

(2) not more than twenty-five (25);

voting members appointed under section 12 of this chapter.

(c) Each voting member of the board must:

(1) be a resident of Indiana;

(2) be at least twenty-one (21) years of age;

(3) have been actually engaged in the production of milk in Indiana for at least one (1) year; and

(4) derive a substantial portion of the member's income from the production of milk in Indiana.

(d) The board may appoint individuals who hold offices of importance to the milk industry or have special expertise concerning the industry to participate in the work of the board as nonvoting members. Not more than five (5) individuals may be appointed under this subsection.

(e) The commissioner may participate in the activities of the board as an ex officio member.

(f) An Indiana dairy farmer selected to serve on the national dairy board shall be a nonvoting, advisory member of the board.

(g) Fewer than fifty percent (50%) of the board members,

including nonvoting members, may be members of Milk Promotion Services of Indiana, Inc.

Sec. 10. (a) Before January 31, the board shall:

(1) determine:

(A) the percentage of the state's milk marketings produced by each producer registered with the state board of animal health or the United States Department of Agriculture; and

(B) the number of representatives, if any, each producer is entitled to have on the board; and

(2) inform each producer described in subdivision (1)(A) of the determinations made under subdivision (1).

(b) The board shall make the determinations required under this section based upon:

(1) year-end milk marketing figures from the United States Department of Agriculture; and

(2) the formula prescribed under section 12 of this chapter.

Sec. 11. (a) Not later than thirty (30) days after receiving a notice from the board under section 10 of this chapter, a producer or group of producers entitled to representation on the board may submit nominations to the board for board members.

(b) A producer or group of producers may submit two (2) nominations for each board member to which the producer or group of producers is entitled.

Sec. 12. (a) The board shall appoint from among the nominations made under section 11 of this chapter one (1) board member to represent each:

(1) producer who represents at least three percent (3%) of the state's milk marketings; and

(2) group of producers who:

(A) collectively represent at least three percent (3%) of the state's milk marketings; and

(B) notify the board that the producers desire to be considered collectively for purposes of representation on the board.

(b) In addition to the members appointed under subsection (a), the board shall appoint one (1) board member to represent a producer or group of producers described in subsection (a)(2) for each additional ten percent (10%) of the state's milk marketings exceeding three percent (3%) that the producer or group of producers represents.

(c) The board shall make the appointments required under this section not later than thirty (30) days after the close of the period for submission of nominations under section 11 of this chapter.

(d) An appointment made by the board under this section may not result in a producer or group of producers having two (2) members on the board at the same time who represent the same share of the state's milk marketings.

(e) If a producer or group of producers entitled to representation on the board fails to submit a nomination, the board may appoint any individual who meets the requirements of section 9(c) of this chapter to represent the producer or group of producers.

Sec. 13. (a) The term of office of a board member is three (3) years.

(b) A member continues in office until a successor who meets the qualifications set forth in section 9(c) of this chapter is elected.

(c) A member may not serve for more than a total of three (3) terms.

(d) If, upon expiration of the term of a board member, the producer or group of producers who nominated the member no longer represents the percentage of the state's milk marketings required under section 12 of this chapter, a person may not be appointed to replace the board member.

Sec. 14. Each member of the board is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency. However, board members are not entitled to a salary or per diem.

Sec. 15. (a) A member's term of office terminates, and the member's office becomes vacant if the member:

- (1) dies;
- (2) becomes disabled;
- (3) resigns; or
- (4) ceases to meet one (1) or more of the qualifications set forth in section 9(c) of this chapter.

(b) If a board member's office becomes vacant before expiration of the member's term of office, the board shall:

- (1) certify to the producer or group of producers who nominated the member that the vacancy exists; and
- (2) request nominations in accordance with section 11 of this

chapter to fill the vacancy.

(c) The board shall appoint one (1) of the individuals nominated under subsection (b).

(d) An individual appointed under this section shall serve for the remainder of the unexpired term.

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 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.

Sec. 17. (a) The board shall meet at least once every six (6) months.

(b) The board shall meet at a time and place fixed by the board.

(c) The chairperson:

- (1) may call a special meeting; and
- (2) shall call a special meeting upon the request of at least twenty-five percent (25%) of the members of the board.

(d) Written notice of the time and place of all meetings shall be mailed in advance to each board member.

Sec. 18. (a) A majority of voting members appointed to the board constitutes a quorum for the transaction of business.

(b) The affirmative vote of a majority of all members appointed to the board is necessary for the action of the board.

Sec. 19. At each regular meeting, the board shall review all expenditures made since the board's last regular meeting.

Sec. 20. (a) The board shall keep:

- (1) minutes of the board's meetings; and
- (2) other books and records that clearly reflect all the acts and transactions of the board.

(b) The records of the board required to be kept under subsection (a) shall be open to examination during normal business hours.

Sec. 21. (a) The board may contract for the necessary office space, furniture, stationery, printing, and personnel services useful or necessary for the administration of this chapter.

(b) The total administrative costs and expenses of the board may not exceed five percent (5%) of the annual assessments collected under this chapter.

Sec. 22. (a) Obligations incurred by the board and other liabilities and claims against the board may be enforced only against the assets of the board in the same manner as if it were a corporation. No liabilities for the debts or actions of the board may arise against:

- (1) the state;
- (2) a political subdivision (as defined in IC 34-6-2-110); or
- (3) a member, officer, employee, or agent of the board in an individual capacity.

(b) The members and employees of the board may not be held responsible individually to any person for errors in judgment, mistakes, or other acts either of commission or omission, as principal, agent, or employee, except for their own individual acts that result in the violation of any law.

(c) No employee of the board may be held responsible individually for the act or omission of a member of the board.

(d) Any liability of the members of the board is several and not

joint. A member of the board may not be held liable for the default of another member.

Sec. 23. (a) The board shall file a report with the commissioner before October 1.

(b) The report required under subsection (a) must contain the following information:

- (1)** The income received from the assessments and penalties collected under this chapter for the preceding fiscal year.
- (2)** The expenditure of funds by the board during the year for the administration of this chapter.
- (3)** A brief description of all contracts requiring the expenditure of funds by the board and the action taken by the board on all such contracts.
- (4)** An explanation of all programs relating to the discovery, promotion, and development of markets and industries for the utilization of dairy products and the direct expense associated with each program.
- (5)** The name and address of each member of the board.
- (6)** A brief description of the rules, regulations, and orders adopted and promulgated by the board.

(c) The report required under subsection (a) shall be available to the public upon request.

Sec. 24. An assessment of ten cents (\$0.10) per hundredweight is imposed on all milk produced in Indiana for commercial use.

Sec. 25. A producer shall remit the assessment required under section 24 of this chapter to the board:

- (1)** not later than the last day of the month following the month in which the milk is commercially used; and
- (2)** together with a report in a form approved by the board detailing all assessments collected and remitted under this chapter.

Sec. 26. The board shall remit all assessments received under this chapter to the treasurer of state for deposit in the Indiana dairy industry development fund established by section 28 of this chapter.

Sec. 27. The board shall establish procedures for allowing a producer to direct the distribution of the producer's assessment to:

- (1)** the national dairy board; or
- (2)** a qualified program other than the program chosen by the board.

Sec. 28. (a) The Indiana dairy industry development fund is

established. The board shall administer the fund.

(b) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund.

(c) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(d) The board shall use the money in the fund to implement this chapter.

(e) The board may not use money in the fund to establish a program of its own but shall fund an active, ongoing, qualified program in Indiana as stated in 7 U.S.C. 4505, as amended, and the regulations adopted under that act. A qualified program that receives funds under this subsection may use the funds to jointly sponsor projects with any private or public organization to meet the objectives of this chapter, including advertising and promotion, market research, nutrition and product research and development, and nutrition and educational programs.

Sec. 29. A person who knowingly or intentionally violates this chapter commits a Class C misdemeanor.

Sec. 30. (a) The board shall add a penalty of one and one-half percent (1.5%) per month on an unpaid assessment, beginning with the day following the date the assessment was due. Any remaining amount due, including an unpaid penalty assessed under this section, shall be increased at the same rate on the corresponding day of each succeeding month until paid.

(b) For purposes of this section, an assessment that was determined at a date later than prescribed by section 25 of this chapter because of the failure to submit a report to the board when due shall be considered to have been payable on the date it would have been due if the report had been timely filed.

(c) The timeliness of a payment to the board shall be based on:

- (1) the applicable postmarked date; or
- (2) the date actually received by the board;

whichever is earlier.

Sec. 31. The board may maintain a court action to collect assessments and late payment fees due under this chapter.

Sec. 32. The remedies provided in this chapter are in addition to other remedies provided by law or in equity.

SECTION 2. [EFFECTIVE JANUARY 1, 2000 (RETROACTIVE)]

(a) As used in this SECTION, "board" has the meaning set forth

in IC 15-6-4-1, as added by this act.

(b) As used in this SECTION, "commissioner" refers to the commissioner of agriculture or the commissioner's designee.

(c) As used in this SECTION, "producer" has the meaning set forth in IC 15-6-4-6, as added by this act.

(d) Notwithstanding IC 15-6-4-10 through IC 15-6-4-11, as added by this act, the commissioner shall, not later than thirty (30) days after the effective date of this act:

(1) determine:

(A) the percentage of the state's milk marketings produced by each producer registered with the state board of animal health or the United States Department of Agriculture; and

(B) the number of representatives, if any, each producer is entitled to have on the board; and

(2) inform each producer described in subdivision (1)(A) of the determinations made under subdivision (1).

(e) The commissioner shall make the determinations required under this SECTION based upon:

(1) the 1999 year-end milk marketing figures from the United States Department of Agriculture; and

(2) the formula prescribed under IC 15-6-4-12, as added by this act.

(f) Notwithstanding IC 15-6-4-12, as added by this act, the commissioner shall appoint the initial members of the board. Not later than thirty (30) days after receiving a notice from the commissioner under subsection (d), a producer or group of producers entitled to representation on the board may submit nominations to the commissioner for initial board members.

(g) A producer or group of producers may submit two (2) nominations for each initial board member to which the producer or group of producers is entitled.

(h) Not later than thirty (30) days after the close of the period for initial submission of nominations under subsection (g), the commissioner shall appoint initial board members from among the nominations made in accordance with IC 15-6-4-12, as added by this act.

(i) If a producer or group of producers entitled to representation on the initial board fails to submit a nomination, the commissioner may appoint any individual who meets the requirements of IC 15-6-4-9(c), as added by this act, to represent

the producer or group of producers.

SECTION 3. [EFFECTIVE JANUARY 1, 2000 (RETROACTIVE)]

(a) Notwithstanding IC 15-6-4-13(a), as added by this act, the terms of the initial members of the dairy industry development board must be staggered so that:

- (1) one-third (1/3) of the members are appointed for terms of one (1) year;**
- (2) one-third (1/3) of the members are appointed for terms of two (2) years; and**
- (3) one-third (1/3) of the members are appointed for terms of three (3) years.**

(b) The commissioner of agriculture shall determine which members are to be appointed for a term of one (1) year, two (2) years, or three (3) years under subsection (a).

(c) This SECTION expires January 1, 2004.

SECTION 4. An emergency is declared for this act.

P.L.106-2000

[H.1248. Approved March 16, 2000.]

AN ACT to amend the Indiana Code concerning environmental law.

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

SECTION 1. IC 13-26-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) Except as provided in section 9 of this chapter, the hearing officer shall fix a time and place inside or within ten (10) miles of the proposed district for the hearing on the petition for the establishment of the proposed district: **any matter for which a hearing is authorized under this chapter.**

(b) The hearing officer shall ~~have~~ **make a reasonable effort to provide** notice of the hearing ~~given~~ as follows:

- (1) By publication ~~one (1) time of notice~~ two (2) times each week for two (2) consecutive weeks in a newspaper at least two (2) newspapers of general circulation in each of the counties, in whole or in part, in the district. The publication of notice must, at a minimum, include a legal notice and a prominently**

displayed three (3) inches by five (5) inches advertisement.

(2) By certified mail, **return receipt requested**, mailed at least two (2) weeks before the hearing to the following:

(A) ~~Each eligible entity involved.~~ **The fiscal and executive bodies of each county with territory in the proposed district.**

(B) ~~The executive of each entity.~~ **all other eligible entities with territory in the proposed district.**

(C) ~~The department of natural resources if the department of natural resources is involved.~~ **state and any of its agencies owning, controlling, or leasing land within the proposed district, excluding highways and public thoroughfares owned or controlled by the Indiana department of transportation.**

(D) Each sewage disposal company holding a certificate of territorial authority under IC 8-1-2-89 respecting territory in the proposed district.

(3) By making a reasonable effort to provide notice of the hearing by regular United States mail, postage prepaid, mailed at least two (2) weeks before the hearing to each freeholder within the proposed district.

(4) By including the date on which the hearing is to be held, a brief description of:

(A) the subject of the petition, including a description of the general boundaries of the area to be included in the proposed district; and

(B) the locations where copies of the petition are available for viewing.

SECTION 2. An emergency is declared for this act.

P.L.107-2000

[H.1279. Approved March 16, 2000.]

AN ACT to amend the Indiana Code concerning courts and court officers and family and juvenile law.

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

SECTION 1. IC 33-2.1-12-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 5. (a) The program must provide financial assistance in the form of an annual ~~living expense~~ stipend for those students who successfully complete the course of study and become certified graduates of the program.

(b) To be eligible for the annual stipend, certified graduates must be admitted to an Indiana law school, enroll on a full-time basis, and maintain good academic standing. **However, for good cause and to advance the purposes of the program, the advisory committee may waive the requirement that a certified graduate must enroll on a full-time basis.**

(c) The stipend may be awarded for up to three (3) successive academic years, if the student remains eligible. **However, for good cause, the advisory committee may approve the award of a stipend to a student for more than three (3) successive academic years if:**

(1) the student requires more than three (3) successive academic years to earn a law degree; and

(2) the total amount of the stipend that is awarded to the student does not exceed the amount the student would have been awarded if the student had been enrolled:

(A) on a full-time basis; and

(B) for up to three (3) successive academic years.

SECTION 2. P.L.199-1997, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2000]: SECTION 7. (a) This SECTION applies to the circuit and superior courts of a county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000) in which dissolution of marriage actions are filed.

(b) Notwithstanding IC 33-19-5-4, if a county meets the requirements of this SECTION, the clerk of the court shall collect from

the party filing a dissolution of marriage action under IC 31 after December 31, 1997, a civil costs fee of one hundred twenty dollars (\$120). Within thirty (30) days after the clerk collects a fee, the clerk shall forward to the county auditor the difference between the fees collected under this subsection and the fees that would have been collected under IC 33-19-5-4. The county auditor shall deposit the fees forwarded by the clerk under this subsection into the alternative dispute resolution fund of the court for which the fees were collected.

(c) There is established an alternative dispute resolution fund for the circuit court and an alternative dispute resolution fund for the superior court. The exclusive source of money for each fund shall be the fees collected under subsection (b) for the circuit or superior court, respectively. The funds shall be used to foster alternative dispute resolution, including mediation, reconciliation, and parental counseling. Litigants referred by the court to services covered by the fund shall be required to make a copayment for the services in an amount determined by the court. The funds shall be administered by the circuit or superior court, respectively. Money in each fund at the end of a fiscal year does not revert to the county general fund, but remains in the fund for the uses specified in this subsection.

(d) A county desiring to participate in the program under this SECTION must submit ~~a~~ **an initial** plan to the Indiana judicial conference not later than September 30, 1997. The plan must include information concerning how the county proposes to carry out the purposes of the alternative dispute resolution fund as set out in subsection (c). The judicial conference shall determine from the plan submitted under this subsection whether to approve the county's participation in the program. **The county may amend the plan submitted under this subsection at any time with the approval of the judicial conference.** The judicial conference may request such additional information from the county as necessary to assist in a determination under this subsection.

(e) A county that participates in the program under this SECTION shall submit a report to the Indiana judicial conference not later than December 31, 1999, summarizing the results of the program **through 1999. The county shall submit a final report to the Indiana judicial conference not later than December 31, 2001.**

(f) This SECTION expires July 1, ~~2000~~: **2002.**

SECTION 3. An emergency is declared for this act.

P.L.108-2000

[H.1311. Approved March 16, 2000.]

AN ACT to amend the Indiana Code concerning health.

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

SECTION 1. IC 12-24-1-8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 8. (a) Each state institution shall post a notice that a resident, the legal representative of the resident, or another individual designated by the resident may request from the individual in charge of each shift information that designates the names of all nursing personnel or direct care staff on duty by job classification for the:**

(1) wing;
(2) unit; or
(3) other area as routinely designated by the state institution;
where the resident resides.

(b) The notice required under subsection (a) must meet the following conditions:

(1) Be posted in a conspicuous place that is readily accessible to residents and the public.

(2) Be at least 24 point font size on a poster that is at least eleven (11) inches wide and seventeen (17) inches long.

(3) Contain the:

(A) business telephone number of the superintendent of the state institution; and

(B) toll free telephone number for filing complaints with the division that is administratively in charge of the state institution.

(4) State that if a resident, the legal representative of the resident, or another individual designated by the resident is unable to obtain the information described in subsection (a) from the individual in charge of each shift, the resident, the legal representative of the resident, or other individual designated by the resident may do any of the following:

(A) Contact the superintendent of the state institution.

(B) File a complaint with the division that is administratively in charge of the state institution by using the division's toll free telephone number.

(c) The director of the:

(1) division of disability, aging, and rehabilitative services; and

(2) division of mental health;

may adopt rules under IC 4-22-2 to carry out this section.

SECTION 2. IC 12-24-1-9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 9. (a) A director shall produce a statistical report semiannually for each state institution that is under the director's administrative control. The statistical report must list the following information:**

(1) The number of total hours worked in the state institution by each classification of personnel for which the director maintains data.

(2) The resident census of the state institution for which the director maintains data.

(b) The director shall provide a compilation of the statistical reports prepared under subsection (a) to the following:

(1) Each state institution that is under the director's administrative control.

(2) The adult protective services unit under IC 12-10-3.

(c) Each state institution shall:

(1) make available in a place that is readily accessible to residents and the public a copy of the compilation of statistical reports provided under this section; and

(2) post a notice that a copy of the compilation of statistical reports may be requested from the individual in charge of each shift.

(d) The notice required under subsection (c)(2) must meet the following conditions:

(1) Be posted in a conspicuous place that is readily accessible to residents and the public.

(2) Be at least 24 point font size on a poster that is at least eleven (11) inches wide and seventeen (17) inches long.

(3) Contain the:

(A) business telephone number of the superintendent of the state institution; and

(B) toll free telephone number for filing complaints with the division that is administratively in charge of the state institution.

(4) State that if a resident, the legal representative of the resident, or another individual designated by the resident is unable to obtain the compilation of statistical reports from the individual in charge of each shift, the resident, the legal representative of the resident, or other individual designated by the resident may do any of the following:

(A) Contact the superintendent of the state institution.

(B) File a complaint with the division that is administratively in charge of the state institution by using the division's toll free telephone number.

(e) The director of the:

(1) division of disability, aging, and rehabilitative services; and

(2) division of mental health;

may adopt rules under IC 4-22-2 to carry out this section.

SECTION 3. IC 16-19-6-12 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 12. (a) Each special institution designated under section 5 of this chapter shall post a notice that a resident, the legal representative of the resident, or another individual designated by the resident may request from the individual in charge of each shift information that designates the names of all nursing personnel or direct care staff on duty by job classification for the:

(1) wing;

(2) unit; or

(3) other area as routinely designated by the special institution;

where the resident resides.

(b) The notice required under subsection (a) must meet the following conditions:

(1) Be posted in a conspicuous place that is readily accessible to residents and the public.

(2) Be at least 24 point font size on a poster that is at least eleven (11) inches wide and seventeen (17) inches long.

(3) Contain the:

(A) business telephone number of the superintendent of the special institution; and

(B) toll free telephone number for filing complaints with the state department.

(4) State that if a resident, the legal representative of the resident, or another individual designated by the resident is unable to obtain the information described in subsection (a) from the individual in charge of each shift, the resident, the legal representative of the resident, or other individual designated by the resident may do any of the following:

(A) Contact the superintendent of the special institution.

(B) File a complaint with the state department by using the state department's toll free telephone number.

(c) The state department may adopt rules under IC 4-22-2 to carry out this section.

SECTION 4. IC 16-19-6-13 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 13. (a) The state health commissioner shall produce a statistical report semiannually for each special institution designated in section 5 of this chapter. The statistical report must list the following information:**

(1) The number of total hours worked in the special institution by each classification of personnel for which the state health commissioner maintains data.

(2) The resident census of the special institution for which the state health commissioner maintains data.

(b) The state health commissioner shall provide a compilation of the statistical reports prepared under subsection (a) to the following:

(1) Each special institution designated in section 5 of this chapter.

(2) The state department.

(3) The state ombudsman.

(c) Each special institution designated in section 5 of this chapter shall:

(1) make available in a place that is readily accessible to residents and the public a copy of the compilation of statistical reports provided under this section; and

(2) post a notice that a copy of the compilation of statistical reports may be requested from the individual in charge of each shift.

(d) The notice required under subsection (c)(2) must meet the following conditions:

(1) Be posted in a conspicuous place that is readily accessible to residents and the public.

(2) Be at least 24 point font size on a poster that is at least eleven (11) inches wide and seventeen (17) inches long.

(3) Contain the:

(A) business telephone number of the superintendent of the special institution; and

(B) toll free telephone number for filing complaints with the state department.

(4) State that if a resident, the legal representative of the resident, or another individual designated by the resident is unable to obtain the compilation of statistical reports from the individual in charge of each shift, the resident, the legal representative of the resident, or other individual designated by the resident may do any of the following:

(A) Contact the superintendent of the special institution.

(B) File a complaint with the state department by using the state department's toll free telephone number.

(e) The state department may adopt rules under IC 4-22-2 to carry out this section.

SECTION 5. IC 16-28-2-8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 8. (a) Each comprehensive care health facility shall post a notice that a resident, the legal representative of the resident, or another individual designated by the resident may request from the licensed nurse in charge of each shift information that designates the names of all nursing personnel on duty by job classification for the:**

(1) wing;

(2) unit; or

(3) other area as routinely designated by the health facility;

where the resident resides.

(b) The notice required under subsection (a) must meet the following conditions:

- (1) Be posted in a conspicuous place that is readily accessible to residents and the public.**
- (2) Be at least 24 point font size on a poster that is at least eleven (11) inches wide and seventeen (17) inches long.**
- (3) Contain the:**
 - (A) business telephone number of the administrator of the health facility; and**
 - (B) toll free telephone number for filing complaints with the state department.**
- (4) State that if a resident, the legal representative of the resident, or another individual designated by the resident is unable to obtain the information described in subsection (a) from the licensed nurse in charge of each shift, the resident, the legal representative of the resident, or another individual designated by the resident may do any of the following:**
 - (A) Contact the administrator of the health facility.**
 - (B) File a complaint with the state department by using the state department's toll free telephone number.**
- (c) The state department may adopt rules under IC 4-22-2 to carry out this section.**

SECTION 6. IC 16-28-2-9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 9. (a) The office of Medicaid policy and planning shall produce a statistical report semi-annually for each Medicaid certified comprehensive care health facility that lists the following information:**

- (1) The health facility's case mix index for each quarter covered by the statistical report for which the office of Medicaid policy and planning maintains data.**
- (2) The number of total hours worked in the health facility by each classification of personnel for which the office of Medicaid policy and planning maintains data.**
- (3) The resident census of the health facility for which the office of Medicaid policy and planning maintains data.**
- (4) A calculation of the average case-mix-adjusted hours-per-resident-day ratio for each health facility by each classification of nursing personnel and the average hours-per-resident-day ratio for each health facility for all other personnel by category for which the office of Medicaid**

policy and planning maintains data.

(b) The office of Medicaid policy and planning shall provide a compilation of the statistical reports prepared under subsection (a) to the following:

- (1) Each Medicaid certified comprehensive care health facility.**
- (2) The state department.**
- (3) The state ombudsman.**
- (4) Each area ombudsman.**
- (5) Each area agency on aging.**

(c) Each Medicaid certified comprehensive care health facility shall:

- (1) make available in a place that is readily accessible to residents and the public a copy of the compilation of statistical reports prepared under subsection (a); and**
- (2) post a notice that a copy of the compilation of statistical reports may be requested from the licensed nurse in charge of each shift.**

(d) The notice required under subsection (c)(2) must meet the following conditions:

- (1) Be posted in a conspicuous place that is readily accessible to residents and the public.**
- (2) Be at least 24 point font size on a poster that is at least eleven (11) inches wide and seventeen (17) inches long.**
- (3) Contain the:**
 - (A) business telephone number of the administrator of the health facility; and**
 - (B) toll free telephone number for filing complaints with the state department.**
- (4) State that if a resident, the legal representative of the resident, or another individual designated by the resident is unable to obtain the compilation of statistical reports in subsection (a) from the licensed nurse in charge of each shift, the resident, the legal representative of the resident, or another individual designated by the resident may do any of the following:**
 - (A) Contact the administrator of the health facility.**
 - (B) File a complaint with the state department by using the state department's toll free telephone number.**

(e) The state department may adopt rules under IC 4-22-2 to carry out this section.



P.L.109-2000

[H.1316. Approved March 16, 2000.]

AN ACT to amend the Indiana Code concerning transportation.

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

SECTION 1. IC 8-9-11 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]:

Chapter 11. Contract Carriers Transporting Railroad Employees

Sec. 1. This chapter applies to a contract carrier that transports an employee of a railroad under the terms of a contractual agreement with the railroad.

Sec. 2. As used in this chapter, "contract carrier" has the meaning set forth in IC 8-2.1-17-5.

Sec. 3. A contract carrier shall do the following:

(1) Limit the hours of service by a driver who transports a railroad employee to:

- (A) twelve (12) hours of vehicle operation per day;**
- (B) fifteen (15) hours of on duty service per day; and**
- (C) seventy (70) hours of on duty service in seven (7) consecutive days.**

(2) Require a driver who has:

- (A) twelve (12) hours of vehicle operation per day; or**
 - (B) fifteen (15) hours of on duty service per day;**
- to have at least eight (8) consecutive hours off duty before operating a vehicle again.**

P.L.110-2000

[H.1328. Approved March 16, 2000.]

AN ACT to amend the Indiana Code concerning health.

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

SECTION 1. IC 16-31-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 2. (a) The commission is composed of eleven (11) members. The governor shall appoint the members for four (4) year terms as follows:

- (1) One (1) must be appointed from a volunteer fire department that provides ~~ambulance~~ **emergency medical** service.
- (2) One (1) must be appointed from a full-time municipal fire or police department that provides ~~ambulance~~ **emergency medical** service.
- (3) One (1) must be a nonprofit provider of emergency ambulance services organized on a volunteer basis other than a volunteer fire department.
- (4) One (1) must be a provider of private ambulance services.
- (5) One (1) must be a state certified paramedic.
- (6) One (1) must be a licensed physician who:
 - (A) has a primary interest, training, and experience in emergency medical services; and
 - (B) is currently practicing in an emergency medical services facility.
- (7) One (1) must be a chief executive officer of a hospital that provides emergency ambulance services.
- (8) One (1) must be a registered nurse who has supervisory or administrative responsibility in a hospital emergency department.
- (9) One (1) must be a licensed physician who:
 - (A) has a primary interest, training, and experience in trauma care; and
 - (B) is practicing in a trauma facility.
- (10) One (1) must be a state certified emergency medical service technician.

(11) One (1) must be an individual who:

(A) represents the public at large; and

(B) is not in any way related to providing emergency medical services.

(b) The chief executive officer of a hospital appointed under subsection (a)(7) may designate another administrator of the hospital to serve for the chief executive officer on the commission.

(c) Not more than six (6) members may be from the same political party.

P.L.111-2000

[H.1334. Approved March 16, 2000.]

AN ACT to amend the Indiana Code concerning insurance.

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

SECTION 1. IC 27-1-7-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. (a) A mutual or stock company organized under this article may borrow or assume a liability for the repayment of a sum of money to provide itself with surplus funds with the prior approval of the department. The rate of interest on any loan or advance may not exceed the following:

(1) The corporate base rate in effect on the first business day of the month in which the loan document is executed, as reported by the bank or branch with the greatest amount of assets in Indiana, plus three percent (3%) per annum.

(2) A variable rate ~~equal to~~ **determined by a formula that:**

(A) **is specified in the loan document;**

(B) **is based on objective data or information that is reasonably related to commercial lending rates;**

(C) **provides an initial rate that is not more than the corporate base rate in effect on the first business day of each the month during the term of in which the loan document is executed, as reported by the bank or branch with the greatest amount of assets in Indiana, plus ~~(B)~~ two percent (2%) per**

annum; and

(D) is approved by the department as reasonable and appropriate in relation to the company's financial condition.

However, the variable rate may not increase by more than two percent (2%) in any one (1) year and may not increase by more than five percent (5%) over the life of the loan.

The company shall elect and state in the written agreement whether the interest rate is to be fixed or floating for the term of the agreement. The agreement shall be submitted to and approved by the department before the agreement's execution.

(b) The loan or advance, with interest at a rate not exceeding the maximum rate of interest as defined in subsection (a), shall be repaid only out of the surplus of the company. Repayment of principal or payment of interest may be made only when approved by the department whenever in its judgment the financial condition of the company shall warrant. However, the department may not withhold approval if:

- (1) the company has and submits to the department satisfactory evidence that a surplus that is equal to or greater than the surplus existing immediately after the issuance of the loan or advance will exist after the repayment; and
- (2) the surplus that will exist immediately after repayment of principal or payment of interest is:
 - (A) reasonable in relation to the company's outstanding liabilities; and
 - (B) adequate to the company's financial needs;in light of the factors set forth in IC 27-1-23-4(f).

(c) A loan or advance made under this section, or interest accruing on the loan or advance, may not form a part of the legal liabilities of the company until authorized for payment by the department. However, until a loan or an advance is repaid, all statements published by the company or filed with the department must show the amount of the loan or advance then remaining unpaid, including any accrued and unpaid interest charges.

SECTION 2. An emergency is declared for this act.

P.L.112-2000

[H.1343. Approved March 16, 2000.]

AN ACT concerning environmental law.

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

SECTION 1. IC 13-11-2-177.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 177.5. "Publicly owned treatment works", for purposes of IC 13-18-3, has the meaning set forth in 327 IAC 5-1.5-48.**

SECTION 2. IC 13-11-2-242.3 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 242.3. "Upset", for purposes of IC 13-18-12-8, means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee, and does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.**

SECTION 3. IC 13-18-12-8 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 8. (a) If a publicly owned treatment works permittee:**

- (1) determines that an upset has occurred in the publicly owned treatment works that is likely to pose a threat to human or animal life; or**
- (2) has knowledge of an imminent threat from a chemical or other release to the collection system that is likely to cause an upset in the publicly owned treatment works that is likely to pose a threat to human or animal life;**

the permittee shall notify emergency response personnel of the department not more than two (2) hours after the determination

under subdivision (1) or the acquisition of knowledge of an imminent threat under subdivision (2).

(b) If the department receives notification from a publicly owned treatment works permittee under subsection (a), the department:

- (1) must notify all appropriate state and local government agencies;
- (2) may provide technical assistance to the publicly owned treatment works as the department determines is necessary; and
- (3) must, if the department determines that there is or may be a threat to human health or animal life, notify the affected news media;

not more than forty-eight (48) hours after receiving the notification under subsection (a).

SECTION 4. IC 13-30-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1. (a) A person who intentionally, knowingly, or recklessly violates:

- (1) environmental management laws;
- (2) air pollution control laws;
- (3) water pollution control laws;
- (4) a rule or standard adopted by one (1) of the boards; or
- (5) a determination, a permit, or an order made or issued by the commissioner under environmental management laws or IC 13-7 (before its repeal);

commits a Class D felony.

(b) Notwithstanding IC 35-50-2-7(a), a person who is convicted of a Class D felony under this section (or IC 13-7-13-3(a) before its repeal) may, in addition to the term of imprisonment established under IC 35-50-2-7(a), be punished by:

- (1) a fine of not less than ~~two~~ **five** thousand ~~five hundred~~ dollars ~~(\$2,500)~~ **(\$5,000)** and not more than ~~twenty-five~~ **fifty** thousand dollars ~~(\$25,000)~~ **(\$50,000)** per day of violation; or
- (2) if the conviction is for a violation committed after a first conviction of the person under this section (or IC 13-7-13-3(a) before its repeal), a fine of not more than ~~fifty~~ **one hundred** thousand dollars ~~(\$50,000)~~ **(\$100,000)** per day of violation.

SECTION 5. IC 13-30-6-3 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 3. (a) A person who knowingly:

- (1) transports any hazardous waste to a facility that does not have an operation permit or approval to accept the waste;
- (2) disposes, treats, or stores any hazardous waste without having obtained a permit for the waste; or
- (3) makes a false statement or representation in an application, a label, a manifest, a record, a report, a permit, or other document filed, maintained, or used under environmental management laws with regard to hazardous waste;

commits a Class D felony.

(b) Notwithstanding IC 35-50-2-7(a), a person who is convicted of a Class D felony under this section may, in addition to the term of imprisonment established under IC 35-50-2-7(a), be punished by:

- (1) a fine of **not less than two thousand five hundred dollars (\$2,500) and** not more than ~~twenty-five~~ **fifty** thousand dollars (~~\$25,000~~) **(\$50,000)** for each day of violation; or
- (2) if the conviction is for a violation committed after a first conviction of the person under this section, IC 13-30-6-1, IC 13-30-6-2, or IC 13-7-13-3 (before its repeal), a fine of not more than ~~fifty~~ **one hundred** thousand dollars (~~\$50,000~~) **(\$100,000)** per day of violation.

SECTION 6. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "department" refers to the department of environmental management.

(b) The department shall prepare a report that includes the following:

- (1) A comprehensive and detailed report that:**
 - (A) describes plans for restoration of the White River; and**
 - (B) sets forth the department's recommendations for changes in statutes, rules, or procedures and practices of the department to:**
 - (i) reduce the probability of contamination events; and**
 - (ii) improve the timeliness and efficiency of protocols and procedures for notice to affected entities if such an event occurs in the future.**
- (2) A complete list of all events of contamination of waters of the state after December 31, 1994, in which fish or other**

aquatic species were killed and in which civil penalties were imposed under IC 13-30-4 (or under the law that governed the imposition of civil penalties before the enactment of IC 13-30-4), including the following:

- (A) A description of the contamination event.
- (B) The date the contamination event occurred.
- (C) The entity on which the civil penalty was imposed.
- (D) The total amount of the civil penalty imposed.

(c) Before November 30, 2000, the department shall deliver the report described in subsection (b) to:

- (1) the executive director of the legislative services agency for distribution to members of the legislative council;
- (2) the environmental quality service council;
- (3) the governor; and
- (4) the lieutenant governor.

(d) The environmental quality service council shall:

- (1) study the report delivered to it under subsection (c); and
- (2) make recommendations to the general assembly before January 1, 2002.

SECTION 7. [EFFECTIVE UPON PASSAGE] 326 IAC 2-1.1-3(b) is void.

SECTION 8. [EFFECTIVE UPON PASSAGE] (a) A reference in this SECTION to a provision of the Indiana Administrative Code or Code of Federal Regulations includes a reference to a successor provision.

(b) "Construction" has the meaning set forth in 326 IAC 1-2-21.

(c) "Modification" has the meaning set forth in 326 IAC 1-2-42.

(d) "Operation" has the meaning set forth in 326 IAC 2-1.1-1(11).

(e) "Process" has the meaning set forth in 326 IAC 2-1.1-1(17).

(f) "Regulated pollutant" has the meaning set forth in 326 IAC 1-2-66.

(g) Where a rule of the air pollution control board lists emission units, operations, or processes of which construction or modification are exempt from the requirement to obtain a registration, permit, modification approval, or permit revision, the air pollution control board may not condition such exemption on whether the potential to emit any regulated pollutant from the construction or modification exceeds an emission threshold

establishing the requirement to obtain a registration, permit, modification approval, or permit revision under 326 IAC 2.

(h) This SECTION does not apply to construction or modification:

- (1) subject to federal prevention of significant deterioration requirements as set out in 326 IAC 2-2 and 40 CFR 52.21;
- (2) subject to nonattainment new source review requirements as set out in 326 IAC 2-3;
- (3) at a source that has an operation permit issued under 326 IAC 2-7, where the construction or modification would be considered a Title I modification under 40 CFR Part 70; or
- (4) that would result in the source needing to make a transition to an operating permit issued under 326 IAC 2-6.1, 326 IAC 2-7, or 326 IAC 2-8.

SECTION 9. [EFFECTIVE UPON PASSAGE] (a) Before January 1, 2002, the air pollution control board shall amend 326 IAC 2-1.1-3 to reflect SECTION 7 of this act.

(b) This SECTION expires on the earlier of the following:

- (1) The effective date of the rule amendment adopted under subsection (a).
- (2) January 1, 2002.

SECTION 10. An emergency is declared for this act.

P.L.113-2000

[H.1352. Approved March 16, 2000.]

AN ACT to amend the Indiana Code concerning human services.

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

SECTION 1. IC 12-15-2.2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999 (RETROACTIVE)]: Sec. 3.

(a) An entity described in section 1(2) of this chapter may apply to the office, on a form provided by the office, for authorization to be a qualified entity under this chapter.

(b) Notwithstanding section 1(2) of this chapter and subsection (a), the office shall consider the following to be qualified entities:

- (1) A disproportionate share provider under IC 12-15-16-1(a) **or IC 12-15-16-1(b).**
- ~~(2) An enhanced disproportionate share provider under IC 12-15-16-1(b).~~
- ~~(3)~~ **(2)** A federally qualified health clinic.
- ~~(4)~~ **(3)** A rural health clinic.

SECTION 2. IC 12-15-15-1.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999 (RETROACTIVE)]: Sec. 1.1.

(a) This section applies to a hospital that is:

- (1) licensed under IC 16-21; and
- (2) established and operated under IC 16-22-2 or IC 16-23.

(b) For a state fiscal year ending after June 30, 1997, in addition to reimbursement received under section 1 of this chapter, a hospital is entitled to reimbursement in an amount calculated from the hospital's cost report filed with the office for the hospital's fiscal period ending during the state fiscal year, equal to the difference between:

- (1) the amount of payments to the hospital under this article, excluding payments under IC 12-15-16 and IC 12-15-19, for services provided by the hospital during the state fiscal year; and
- (2) an amount equal to the lesser of the following:
 - (A) The hospital's customary charges for the services described in subdivision (1).
 - (B) A reasonable estimate by the office of the amount that must be paid for the services described in subdivision (1) under Medicare payment principles.

(c) Subject to subsection (e), reimbursement under this section consists of a single payment made after the close of each state fiscal year. A payment described in this subsection is not due to a hospital unless an intergovernmental transfer is made under subsection (d).

(d) Subject to subsection (e), a hospital may make an intergovernmental transfer, or an intergovernmental transfer may be made on behalf of the hospital, after the close of each state fiscal year. An intergovernmental transfer under this subsection shall be made to the Medicaid indigent care trust fund in an amount equal to eighty-five percent (85%) of the amount determined under subsection (b). The intergovernmental transfer must be used to ~~pay~~ **fund a portion of** the

state's share of ~~enhanced~~ disproportionate share payments under ~~IC 12-15-20-2(1)~~ **IC 12-15-20-2(2)**.

(e) An entity making an intergovernmental transfer under subsection (d) may appeal under IC 4-21.5 the amount determined by the office to be paid under subsection (b). The periods described in subsections (c) and (d) are tolled pending the administrative appeal and any judicial review initiated by the hospital under IC 4-21.5.

(f) The office may not implement this section until the federal Health Care Financing Administration has issued its approval of the amended state plan for medical assistance. The office may determine not to continue to implement this section if federal financial participation is not available.

SECTION 3. IC 12-15-15-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999 (RETROACTIVE)]: Sec. 9.

(a) For each state fiscal year beginning on or after July 1, 1997, a hospital is entitled to a payment under this section.

(b) Total payments to hospitals under this section for a state fiscal year shall be equal to all amounts transferred from the hospital care for the indigent fund for Medicaid current obligations during the state fiscal year, including amounts of the fund appropriated for Medicaid current obligations.

(c) The payment due to a hospital under this section must be based on a policy developed by the office. The policy:

- (1) is not required to provide for equal payments to all hospitals;
- (2) must attempt, to the extent practicable as determined by the office, to establish a payment rate that minimizes the difference between the aggregate amount paid under this section to all hospitals in a county for a state fiscal year and the amount of the county's hospital care for the indigent property tax levy for that state fiscal year; and
- (3) must provide that no hospital will receive a payment under this section less than the amount the hospital received under IC 12-15-15-8 for the state fiscal year ending June 30, 1997.

(d) Following the transfer of funds under subsection (b), an amount equal to the amount determined in the following STEPS shall be deposited in the Medicaid indigent care trust fund under ~~IC 12-15-20-2(1)~~ **IC 12-15-20-2(2)** and used to ~~pay~~ **fund a portion of** the state's share of the ~~enhanced~~ disproportionate share payments to

providers for the state fiscal year:

STEP ONE: Determine the difference between:

- (A) the amount transferred from the state hospital care for the indigent fund under subsection (b); and
- (B) thirty-five million dollars (\$35,000,000).

STEP TWO: Multiply the amount determined under STEP ONE by the federal medical assistance percentage for the state fiscal year.

SECTION 4. IC 12-15-15-10 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1994 (RETROACTIVE)]: **Sec. 10. (a) This section applies to a hospital that:**

- (1) is licensed under IC 16-21; and**
- (2) qualifies as a provider under the Medicaid disproportionate share provider program.**

(b) The office may, after consulting with affected providers, do one (1) or more of the following:

- (1) Expand the payment program established under section 1.1(b) of this chapter to include all hospitals described in subsection (a).**
- (2) Establish a nominal charge hospital payment program.**
- (3) Establish any other permissible payment program.**

(c) A program expanded or established under this section is subject to the availability of:

- (1) intergovernmental transfers; or**
- (2) funds certified as being eligible for federal financial participation.**

(d) The office may not implement a program under this section until the federal Health Care Financing Administration approves the provisions regarding the program in the amended state plan for medical assistance.

(e) The office may determine not to continue to implement a program established under this section if federal financial participation is not available.

SECTION 5. IC 12-15-16-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999 (RETROACTIVE)]: **Sec. 1.**

(a) A provider under ~~IC 12-15-17~~ that is an acute care hospital licensed under IC 16-21, a state mental health institution under

IC 12-24-1-3, or a private psychiatric institution licensed under IC 12-25 is a basic disproportionate share provider if the provider's provider meets either of the following conditions:

(1) **The provider's** Medicaid inpatient utilization rate is at least one (1) standard deviation above the mean Medicaid inpatient utilization rate for providers receiving Medicaid payments in Indiana. However, the Medicaid inpatient utilization **rate** of providers whose low income utilization rate exceeds twenty-five percent (25%) must be excluded in calculating the statewide mean Medicaid inpatient utilization rate. ~~or~~

(2) **The provider's** low income utilization rate exceeds twenty-five percent (25%).

~~(b)~~ An acute care hospital licensed under ~~IC 16-21~~ is an enhanced disproportionate share provider under either of the following conditions:

(1) If the provider's Medicaid inpatient utilization rate is at least one (1) standard deviation above the mean Medicaid inpatient utilization rate for providers receiving Medicaid payments in Indiana. However, the Medicaid inpatient utilization rate of providers whose low income utilization rate exceeds twenty-five percent (25%) must be excluded in calculating the statewide mean Medicaid inpatient utilization rate.

(2) If the provider's low income utilization rate exceeds twenty-five percent (25%).

~~(c)~~ (b) An acute care hospital licensed under 16-21 is a municipal disproportionate share provider if the hospital:

(1) has a Medicaid utilization rate greater than one percent (1%); and

(2) is established and operated under IC 16-22-2 or IC 16-23.

~~(d)~~ (c) A community mental health center that:

(1) is identified in IC 12-29-2-1;

(2) receives funding under IC 12-29-1-7(b) or from other county sources; and

(3) provides inpatient services to Medicaid patients;

is a community mental health center disproportionate share provider if the community mental health center's Medicaid inpatient utilization rate is greater than one percent (1%).

~~(e)~~ (d) A disproportionate share provider under IC 12-15-17 must

have at least two (2) obstetricians who have staff privileges and who have agreed to provide obstetric services under the Medicaid program. For a hospital located in a rural area (as defined in Section 1886 of the Social Security Act), an obstetrician includes a physician with staff privileges at the hospital who has agreed to perform nonemergency obstetric procedures. However, this obstetric service requirement does not apply to a provider whose inpatients are predominantly individuals less than eighteen (18) years of age or that did not offer nonemergency obstetric services as of December 21, 1987.

(f) (e) The determination of a provider's status as a disproportionate share provider under this section shall be based on utilization and revenue data from the most recent year for which an audited cost report from the provider is on file with the office.

SECTION 6. IC 12-15-16-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999 (RETROACTIVE)]: Sec. 2.

(a) For purposes of ~~basic, enhanced, municipal, and community mental health center~~ disproportionate share **eligibility**, a provider's Medicaid inpatient utilization rate is a fraction (expressed as a percentage) where:

- (1) the numerator is the provider's total number of Medicaid ~~and hospital care for the indigent program (IC 12-16-2)~~ inpatient days in the most recent year for which an audited cost report is on file with the office; and
- (2) the denominator is the total number of the provider's inpatient days in the most recent year for which an audited cost report is on file with the office.

(b) For purposes of this section, "inpatient days" includes days provided by an acute care excluded distinct part subprovider unit of the provider and inpatient days attributable to Medicaid beneficiaries from other states. The term also includes inpatient days attributable to:

- (1) Medicaid managed care recipients; **and**
- (2) **Medicaid eligible patients.**

SECTION 7. IC 12-15-16-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999 (RETROACTIVE)]: Sec. 3.

(a) For purposes of ~~basic and enhanced~~ disproportionate share **eligibility**, a provider's low income utilization rate is the sum of **the following, based on the most recent year for which an audited cost report is on file with the office:**

- (1) A fraction (expressed as a percentage) for which:
- (A) ~~for a fixed cost reporting period specified in state rules;~~ the numerator is the sum of:
- (i) the total Medicaid ~~inpatient patient~~ revenues paid to the provider; ~~based on final cost settlement;~~ plus
 - (ii) the amount of the cash subsidies received directly from state and local governments, including payments made under the hospital care for the indigent program (IC 12-16-2); and
- (B) the denominator is the total amount of the provider's ~~inpatient-patient~~ revenues ~~for inpatient services;~~ **paid to the provider**, including cash subsidies; ~~in the same fixed cost reporting period;~~ and
- (2) A fraction (expressed as a percentage) for which:
- (A) the numerator is the total amount of the provider's charges for inpatient services that are attributable to care provided to individuals who have no source of payment; ~~or third party or personal resources in a fixed cost reporting period specified in state rules;~~ and
- (B) the denominator is the total amount of charges for inpatient services. ~~in the same fixed cost reporting period.~~

(b) The numerator in subsection (a)(1)(A) does not include contractual allowances and discounts other than for indigent patients not eligible for Medicaid.

SECTION 8. IC 12-15-16-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998 (RETROACTIVE)]: Sec. 6.

(a) As used in this section, "low income utilization rate" refers to the low income utilization rate described in section 3 of this chapter.

~~(b) As used in this section, "Medicaid inpatient utilization rate" refers to the Medicaid inpatient utilization rate described in section 2(a) of this chapter.~~

~~(c)~~ **(b)** Hospitals that qualify for basic disproportionate share under section 1(a) of this chapter shall receive disproportionate share payments as follows:

- (1) For ~~each of~~ the state fiscal ~~years year~~ ending ~~after~~ June 30, ~~1996, 1999~~, a pool not exceeding ~~eight twenty-one~~ million dollars ~~(\$8,000,000)~~ **(\$21,000,000)** shall be distributed to all hospitals licensed under IC 16-21 that qualify under section

1(a)(1) of this chapter. The funds in the pool must be distributed to qualifying hospitals in proportion to each hospital's Medicaid day utilization **rate** and Medicaid **discharge rate; discharges**, as determined based on data from the most recent audited cost report on file with the office.

~~(2) For each of the state fiscal years ending June 30, 1994 and 1995, a pool of zero dollars (\$0) shall be distributed to all hospitals licensed under IC 16-21 that qualify under section 1(a)(2) of this chapter. The Any funds remaining in the pool must be distributed referred to in this subdivision following distribution to all qualifying hospitals in proportion to each hospital's low income utilization rate; shall be transferred to the pool distributed under subdivision (3).~~

~~(3) (2) Hospitals licensed under IC 16-21 that qualify under both section 1(a)(1) and 1(a)(2) of this chapter shall receive a disproportionate share payment in accordance with subdivision (1).~~

~~(4) For each of the state fiscal years ending after June 30, 1995, a pool not exceeding two million dollars (\$2,000,000) shall be distributed to all private psychiatric institutions licensed under IC 12-25 that qualify under either section 1(a)(1) or 1(a)(2) of this chapter. The funds in the pool must be distributed to the qualifying institutions in proportion to each institution's Medicaid day utilization rate; as determined based on data from the most recent audited cost report on file with the office.~~

~~(5) A pool not exceeding one hundred ninety-one million dollars (\$191,000,000) for the state fiscal year ending June 30, 1995, shall be distributed to all state mental health institutions under IC 12-24-1-3 that qualify under either section 1(a)(1) or 1(a)(2) of this chapter. The funds in a pool must be distributed to each qualifying institution in proportion to each institution's low income utilization rate; as determined based on the most recent data on file with the office.~~

~~(6) (3) For each of the state fiscal years year ending after June 30, 1994, 1999, a pool not exceeding eighteen five million dollars (\$18,000,000) (\$5,000,000), subject to adjustment by the transfer of any funds remaining in the pool referred to in subdivision (1), following distribution to all qualifying~~

hospitals, shall be distributed to all hospitals licensed under IC 16-21 that:

- (A) qualify under section 1(a)(1) or 1(a)(2) of this chapter; and
- (B) have at least ~~twenty~~ **twenty-five** thousand ~~(20,000)~~ **(25,000)** Medicaid inpatient days per year, **based on data from each hospital's Medicaid cost report for the fiscal year ended during state fiscal year 1996.**

The funds in the pool must be distributed to qualifying hospitals in proportion to each hospital's Medicaid day utilization rate and total **Medicaid** patient days, as determined based on data from the most recent audited cost report on file with the office. Payments under this subdivision are in place of the payments made under subdivisions (1) and (2).

(c) Other institutions that qualify as disproportionate share providers under section 1 of this chapter, in each state fiscal year, shall receive disproportionate share payments as follows:

(1) For each of the state fiscal years ending after June 30, 1995, a pool not exceeding two million dollars (\$2,000,000) shall be distributed to all private psychiatric institutions licensed under IC 12-25 that qualify under section 1(a)(1) or 1(a)(2) of this chapter. The funds in the pool must be distributed to the qualifying institutions in proportion to each institution's Medicaid day utilization rate as determined based on data from the most recent audited cost report on file with the office.

(2) A pool not exceeding one hundred ninety-one million dollars (\$191,000,000) for all state fiscal years ending after June 30, 1995, shall be distributed to all state mental health institutions under IC 12-24-1-3 that qualify under either section 1(a)(1) or 1(a)(2) of this chapter. The funds in the pool must be distributed to each qualifying institution in proportion to each institution's low income utilization rate, as determined based on the most recent data on file with the office.

(d) Disproportionate share payments described in this section shall be made on an interim basis throughout the year, as provided by the office.

(e) For years ending after June 30, 1995, the individual pools shall

be adjusted by a ratio, the numerator of which is the Medicaid payments for hospital inpatient services for the state's most recent fiscal year, and the denominator of which is the Medicaid payments for hospital inpatient services for the state's fiscal year preceding the state's most recent fiscal year.

(f) For years ending after June 30, 1994, eligibility for basic disproportionate share payments under this section shall be based on data from the most recent year for which audited cost reports are on file with the office for all potentially eligible hospitals on June 30 of the immediately preceding state fiscal year.

SECTION 9. IC 12-15-17-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999 (RETROACTIVE)]: Sec. 1. A basic disproportionate share payment shall be made to:

- (1) a hospital licensed under IC 16-21;
- (2) a state mental health institution under IC 12-24-1-3; and
- (3) a private psychiatric institution licensed under IC 12-25;

that serves a disproportionate share of Medicaid recipients and other low income patients as determined under ~~IC 12-15-16-1(a)~~. **IC 12-15-16-1**. However, a provider may not be defined as a disproportionate share provider under ~~IC 12-15-16-1(a)~~ **IC 12-15-16-1** unless the provider has a Medicaid inpatient utilization rate (as defined in 42 U.S.C. 1396r-4(b)(2)) of at least one percent (1%).

SECTION 10. IC 12-15-18-5.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999 (RETROACTIVE)]: Sec. 5.1.

(a) For state fiscal years ending on or after June 30, 1998, the trustees and each municipal health and hospital corporation established under IC 16-22-8-6 are authorized to make intergovernmental transfers to the Medicaid indigent care trust fund in amounts to be determined jointly by the office and the trustees, and the office and each municipal health and hospital corporation.

(b) The treasurer of state shall annually transfer from appropriations made for the division of mental health sufficient money to provide the state's share of payments under ~~IC 12-15-16-6(c)(5)~~. **IC 12-15-16-6(c)(2)**.

(c) The office shall coordinate the transfers from the trustees and each municipal health and hospital corporation established under IC 16-22-8-6 so that the aggregate intergovernmental transfers, when combined with federal matching funds:

- (1) produce payments to each hospital licensed under IC 16-21 that qualifies as ~~an enhanced~~ a disproportionate share provider under ~~IC 12-15-16-1(b)~~; **IC 12-15-16-1(a)**; and
- (2) both individually and in the aggregate do not exceed limits prescribed by the ~~United States~~ **federal** Health Care Financing Administration.

The trustees and a municipal health and hospital corporation are not required to make intergovernmental transfers under this section. The trustees and a municipal health and hospital corporation may make additional transfers to the Medicaid indigent care trust fund to the extent necessary to make additional payments from the Medicaid indigent care trust fund apply to a prior federal fiscal year as provided in ~~IC 12-15-19-1(e)~~. **IC 12-15-19-1(b)**.

(d) A municipal disproportionate share provider (as defined in ~~IC 12-15-16-1(e)~~) **IC 12-15-16-1**) shall transfer to the Medicaid indigent care trust fund an amount determined jointly by the office and the municipal disproportionate share provider. A municipal disproportionate share provider is not required to make intergovernmental transfers under this section. A municipal disproportionate share provider may make additional transfers to the Medicaid indigent care trust fund to the extent necessary to make additional payments from the Medicaid indigent care trust fund apply to a prior federal fiscal year as provided in ~~IC 12-15-19-1(c)~~. **IC 12-15-19-1(b)**.

(e) A county treasurer making a payment under IC 12-29-1-7(b) or from other county sources to a community mental health center qualifying as a community mental health center disproportionate share provider shall certify that the payment represents expenditures that are eligible for federal financial participation under 42 U.S.C. 1396b(w)(6)(A) and 42 CFR 433.51. The office shall assist a county treasurer in making this certification.

SECTION 11. IC 12-15-19-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1997 (RETROACTIVE)]: Sec. 1. (a) For the state fiscal year ending June 30, 1997, each hospital licensed under IC 16-21 that qualifies as an enhanced disproportionate share provider under ~~IC 12-15-16-1(b)~~ shall receive additional enhanced disproportionate share adjustments, based on utilization data for the hospital's cost reporting period ending during calendar year

1991, subject to the hospital specific limit specified in subsection (d), as follows:

(1) For hospitals with a Medicaid inpatient utilization rate of fifteen percent (15%) or less and less than twenty-five thousand (25,000) total adult and pediatric days of Medicaid care:

(A) one hundred sixty-three dollars (\$163) for each Medicaid inpatient day; and

(B) one thousand one hundred eleven dollars (\$1,111) for each Medicaid discharge.

(2) For hospitals with a Medicaid inpatient utilization rate of greater than fifteen percent (15%) and less than twenty thousand (20,000) total adult and pediatric Medicaid days:

(A) two hundred fifteen dollars (\$215) for each Medicaid inpatient day; and

(B) one thousand one hundred thirty-two dollars (\$1,132) for each Medicaid discharge.

(3) For hospitals with a Medicaid inpatient utilization rate of greater than twenty percent (20%) and less than twenty-five thousand (25,000) total adult and pediatric Medicaid days:

(A) two hundred forty-one dollars (\$241) for each Medicaid inpatient day; and

(B) one thousand one hundred thirty-three dollars (\$1,133) for each Medicaid discharge.

(4) For hospitals with less than four thousand (4,000) Medicaid discharges and at least twenty-five thousand (25,000) total adult and pediatric Medicaid days:

(A) two hundred forty-six dollars (\$246) for each Medicaid inpatient day; and

(B) two thousand four hundred sixty-five dollars (\$2,465) for each Medicaid discharge.

(5) For hospitals with at least four thousand (4,000) Medicaid discharges and at least twenty-five thousand (25,000) total adult and pediatric Medicaid days:

(A) five hundred twenty-five dollars (\$525) for each Medicaid inpatient day; and

(B) three thousand seven hundred sixty-five dollars (\$3,765) for each Medicaid discharge.

However, the office may adjust the rates specified in this subsection

only to the extent necessary to obtain approval from the federal government of the amendments to the Indiana Medicaid plan that are required to implement the rates specified in this subsection and may make additional payments as provided in subsection (c):

~~(b)~~ **(a)** For ~~each the~~ state fiscal year years ending on or after June 30, 1998, and **June 30, 1999**, the office shall develop an enhanced disproportionate share payment methodology that ensures that each enhanced disproportionate share provider receives total disproportionate share payments that do not exceed its hospital specific limit specified in subsection ~~(d)~~: **(c)**. The methodology developed by the office shall ensure that hospitals operated by **or affiliated with** the governmental entities described in IC 12-15-18-5.1(a) receive, to the extent practicable, ~~basic and enhanced~~ disproportionate share payments equal to their hospital specific limits. The funds shall be distributed to qualifying hospitals in proportion to each qualifying hospital's percentage of the total net hospital specific limits of all qualifying hospitals. A hospital's net hospital specific limit **for state fiscal years ending on or before June 30, 1999**, is determined under STEP THREE of the following formula:

STEP ONE: Determine the hospital's hospital specific limit under subsection ~~(d)~~: **(c)**.

STEP TWO: Subtract basic disproportionate share payments received by the hospital under IC 12-15-16-6 from the amount determined under STEP ONE.

STEP THREE: Subtract intergovernmental transfers paid by or on behalf of the hospital from the amount determined under STEP TWO.

~~(c)~~ **(b)** The office shall include a provision in each amendment to the state plan regarding ~~enhanced~~ disproportionate share payments, municipal disproportionate share payments, and community mental health center disproportionate share payments that the office submits to the federal Health Care Financing Administration that, as provided in 42 CFR 447.297(d)(3), allows the state to make additional ~~enhanced~~ disproportionate share expenditures, municipal disproportionate share expenditures, and community mental health center disproportionate share expenditures after the end of each federal fiscal year that relate back to ~~the~~ **a** prior federal fiscal year. Each eligible hospital or community mental health center may receive an additional ~~enhanced~~;

~~municipal, or community mental health center~~ disproportionate share adjustment if:

- (1) additional intergovernmental transfers or certifications are made as authorized under IC 12-15-18-5.1; and
- (2) the total disproportionate share payments to:
 - (A) each individual hospital; and
 - (B) all qualifying hospitals in the aggregate;
 do not exceed the limits provided by federal law and regulation.

~~(d)~~ **(c) For state fiscal years ending on or before June 30, 1999,** total basic and enhanced disproportionate share payments to a hospital under this chapter and IC 12-15-16 shall not exceed the hospital specific limit provided under 42 U.S.C. 1396r-4(g). The hospital specific limit for ~~a~~ **state fiscal year years ending on or before June 30, 1999,** shall be determined by the office taking into account any data provided by each hospital for each hospital's most recent fiscal year (or in cases where a change in fiscal year causes the most recent fiscal period to be less than twelve (12) months, twelve (12) months of data ending at the end of the most recent fiscal year) as certified to the office by:

- (1) an independent certified public accounting firm if the hospital is a hospital licensed under IC 16-21 that qualifies under IC 12-15-16-1(a); or
- (2) the budget agency if the hospital is a state mental health institution listed under IC 12-24-1-3 that qualifies under either IC 12-15-16-1(a)(1) or IC 12-15-16-1(a)(2);

in accordance with this subsection and federal laws, regulations, and guidelines. **The hospital specific limit for state fiscal years ending after June 30, 1999, shall be determined by the office using the methodology described in section 2.1(b) of this chapter.**

SECTION 12. IC 12-15-19-2.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999 (RETROACTIVE)]: **Sec. 2.1. (a) For each state fiscal year ending on or after June 30, 2000, the office shall develop a disproportionate share payment methodology that ensures that each hospital qualifying for disproportionate share payments under IC 12-15-16-1(a) timely receives total disproportionate share payments that do not exceed the hospital's hospital specific limit provided under 42 U.S.C. 1396r-4(g). The**

payment methodology as developed by the office must:

- (1) maximize disproportionate share hospital payments to qualifying hospitals to the extent practicable;
- (2) take into account the situation of those qualifying hospitals that have historically qualified for Medicaid disproportionate share payments; and
- (3) ensure that payments net of intergovernmental transfers made by or on behalf of qualifying hospitals are equitable.

(b) Total disproportionate share payments to a hospital under this chapter shall not exceed the hospital specific limit provided under 42 U.S.C. 1396r-4(g). The hospital specific limit for a state fiscal year shall be determined by the office taking into account data provided by each hospital that is considered reliable by the office based on a system of periodic audits, the use of trending factors, and an appropriate base year determined by the office. The office may require independent certification of data provided by a hospital to determine the hospital's hospital specific limit.

(c) The office shall include a provision in each amendment to the state plan regarding Medicaid disproportionate share payments that the office submits to the federal Health Care Financing Administration that, as provided in 42 CFR 447.297(d)(3), allows the state to make additional disproportionate share expenditures after the end of each federal fiscal year that relate back to a prior federal fiscal year. However, the total disproportionate share payments to:

- (1) each individual hospital; and
- (2) all qualifying hospitals in the aggregate;

may not exceed the limits provided by federal law and regulation.

(d) The office shall, in each state fiscal year, provide sufficient funds that, when added to the federal medical assistance percentage figure described in 42 U.S.C. 1396d(b), total a minimum of twenty-six million dollars (\$26,000,000) as the state's share of Medicaid disproportionate share expenditures for acute care hospitals licensed under IC 16-21 and private psychiatric institutions licensed under IC 12-25 that qualify for disproportionate share payments under IC 12-15-16-1(a).

SECTION 13. IC 12-15-19-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999 (RETROACTIVE)]: Sec. 5. Except as provided in section 6 of this chapter, ~~enhanced~~

disproportionate share payment adjustments under this chapter may not be withheld by the office unless federal financial participation becomes unavailable to match state money for the purpose of providing ~~enhanced~~ disproportionate share payment adjustments.

SECTION 14. IC 12-15-19-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999 (RETROACTIVE)]: Sec. 6.

(a) The office is not required to make ~~enhanced~~ disproportionate share payments under this chapter ~~until from~~ the Medicaid indigent care trust fund established by IC 12-15-20-1 **until the fund** has received sufficient deposits to permit the office to make the state's share of the required ~~enhanced~~ disproportionate share payments.

(b) If sufficient deposits have not been received, the office shall reduce ~~enhanced~~ disproportionate share payments to all eligible institutions by the same percentage. The percentage reduction shall be sufficient to ensure that payments do not exceed the amounts that can be financed with the state share that is in the fund.

SECTION 15. IC 12-15-19-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1997 (RETROACTIVE)]: Sec. 8.

(a) A provider that qualifies as a municipal disproportionate share provider under ~~IC 12-15-16-1(e)~~ **IC 12-15-16-1** shall receive a disproportionate share adjustment, subject to the provider's hospital specific limits described in subsection (b), as follows:

(1) For each state fiscal year ending on or after June 30, 1998, an amount shall be distributed to each provider qualifying as a municipal disproportionate share provider under ~~IC 12-15-16-1(e)~~ **IC 12-15-16-1**. The total amount distributed shall not exceed the sum of all hospital specific limits for all qualifying providers.

(2) For each municipal disproportionate share provider qualifying under ~~IC 12-15-16-1(e)~~ **IC 12-15-16-1** to receive ~~basic~~ disproportionate share payments, ~~under IC 12-15-16-1(a) or enhanced disproportionate share payments under IC 12-15-16-1(b)~~; the amount in subdivision (1) shall be reduced by the amount of ~~basic~~ disproportionate share payments and ~~enhanced~~ disproportionate share payments received by the provider **under IC 12-15-16-6 or sections 1 or 2.1 of this chapter**. The office shall develop a ~~municipal~~ disproportionate share provider payment methodology that ensures that each

municipal disproportionate share provider receives ~~municipal~~ disproportionate share payments that do not exceed the provider's hospital specific limit specified in subsection (b). The methodology developed by the office shall ensure that a municipal disproportionate share provider receives, to the extent possible, ~~municipal~~ disproportionate share payments that, when combined with any ~~basic disproportionate share payments or enhanced other~~ disproportionate share payments owed to the provider, equals the provider's hospital specific limits.

(b) Total ~~basic, enhanced, and municipal~~ disproportionate share payments to a provider under this chapter and IC 12-15-16 shall not exceed the hospital specific limit provided under 42 U.S.C. 1396r-4(g). The hospital specific limit for ~~a~~ state fiscal ~~year~~ **years ending on or before June 30, 1999**, shall be determined by the office taking into account data provided by each hospital for the hospital's most recent fiscal year or, if a change in fiscal year causes the most recent fiscal period to be less than twelve (12) months, twelve (12) months of data ~~ending at~~ **compiled to the end of the provider's fiscal year that ends within the** most recent state fiscal year, as certified to the office by an independent certified public accounting firm. **The hospital specific limit for all state fiscal years ending on or after June 30, 2000, shall be determined by the office taking into account data provided by each hospital that is deemed reliable by the office based on a system of periodic audits, the use of trending factors, and an appropriate base year determined by the office. The office may require independent certification of data provided by a hospital to determine the hospital's hospital specific limit.**

(c) For each of the state fiscal years:

- (1) beginning July 1, 1998, and ending June 30, 1999; and
- (2) beginning July 1, 1999, and ending June 30, 2000;

the total municipal disproportionate share payments available under this section to qualifying municipal disproportionate share providers is twenty-two million dollars (\$22,000,000).

SECTION 16. IC 12-15-19-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1997 (RETROACTIVE)]: Sec. 9.

(a) For each state fiscal year ending after June 30, 1997, a community mental health center that qualifies as a community health center disproportionate share provider under ~~IC 12-15-16-1(d)~~ **IC 12-15-16-1**

shall receive disproportionate share payments in an amount determined under STEP 3 of the following formula:

STEP 1: Determine the amount paid to the community mental health center during the state fiscal year under IC 12-29-1-7(b) or from other county sources.

STEP 2: Divide the amount determined under STEP 1 by a percentage equal to the state's medical assistance percentage for the state fiscal year.

STEP 3: Subtract the amount determined under STEP 1 from the sum determined under STEP 2.

(b) A community mental health center disproportionate share payment under this chapter and IC 12-15-16 to a community mental health center qualifying under ~~IC 12-15-16-1(d)~~ **IC 12-15-16-1** may not exceed the institution specific limit provided under 42 U.S.C. 1396r-4(g). The institution specific limit for a state fiscal year shall be determined by the office taking into account data provided by the community mental health center **for that is considered reliable by the office based on a system of periodic audits, the use of trending factors, and an appropriate base year determined by the office. The office may require independent certification of data provided by a community mental health center to determine** the community mental health center's most recent fiscal year or, if a change in fiscal year causes the most recent fiscal period to be less than twelve (12) months, ~~twelve (12) months~~ of data compiled to the end of the most recent state fiscal year; as certified to the office by an independent certified public accounting firm: **institution specific limit.**

(c) Subject to:

(1) section 10.1 of this chapter for the state fiscal year beginning July 1, 1998, and ending June 30, 1999; and

(2) ~~IC 12-15-19-10~~ section 10 of this chapter for state fiscal years beginning after June 30, 1999;

disproportionate share payments to community mental health centers may not result in total disproportionate share payments in excess of the state limit on such expenditures for institutions for mental diseases under 42 U.S.C. 1396r-4(h). The office may reduce, on a pro rata basis, payments due under this section for a fiscal year if necessary to avoid exceeding the state limit on disproportionate share expenditures for institutions for mental diseases.

(d) For the state fiscal year beginning July 1, 1999, and ending June 30, 2000, the total community mental health center disproportionate share payments available under this section to qualifying community mental health center disproportionate share providers, including the amount of expenditures certified as being eligible for federal financial participation under IC 12-15-18-5.1(e), is six million dollars (\$6,000,000).

(e) A payment under this section may be recovered by the office from the community mental health center if federal financial participation is disallowed for the funds certified under IC 12-29-1-7(b) upon which such payment was based.

(f) This section expires July 1, 2001.

SECTION 17. IC 12-15-19-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999 (RETROACTIVE)]: Sec. 10.

(a) This subsection applies for the state fiscal year beginning July 1, 1999, and ending June 30, 2000. If the state exceeds the state disproportionate share allocation (as defined in 42 U.S.C. 1396r-4(f)(2)) or the state limit on disproportionate share expenditures for institutions for mental diseases (as defined in 42 U.S.C. 1396r-4(h)), the state shall pay providers as follows:

(1) The state shall make disproportionate share provider payments to municipal disproportionate share providers qualifying under IC 12-15-16-1(b) until the state exceeds the state disproportionate share allocation. The total amount paid to municipal disproportionate share providers under IC 12-15-16-1(b) may not exceed twenty-two million dollars (\$22,000,000).

(2) After the state makes all payments under subdivision (1), if the state fails to exceed the state disproportionate share allocation, the state shall make community mental health center disproportionate share provider payments to providers qualifying under IC 12-15-16-1(c). The total paid to the qualified community mental health center disproportionate share providers under section 9(a) of this chapter, including the amount of expenditures certified as being eligible for federal financial participation under IC 12-15-18-5.1(e), may not exceed six million dollars (\$6,000,000).

(3) After the state makes all payments under subdivision (2), if the state fails to exceed the state disproportionate share

allocation, the state shall make disproportionate share provider payments to providers qualifying under IC 12-15-16-1(a).

(b) This subsection applies for state fiscal years beginning after June 30, 2000. If the state exceeds the state disproportionate share allocation (as defined in 42 U.S.C. 1396r-4(f)(2)) or the state limit on disproportionate share expenditures for institutions for mental diseases (as defined in 42 U.S.C. 1396r-4(h)), the state shall pay providers as follows:

(1) The state shall make ~~basic~~ disproportionate share provider payments **to providers qualifying** under IC 12-15-16-1(a) until the state exceeds the state disproportionate share allocation.

~~(2) After the state makes all payments under subdivision (1); if the state fails to exceed the state disproportionate share allocation, the state shall make enhanced disproportionate share provider payments under IC 12-15-16-1(b).~~

~~(3) (2)~~ After the state makes all payments under subdivision ~~(2);~~ **(1)**, if the state fails to exceed the state disproportionate share allocation, the state shall make municipal disproportionate share provider payments **to providers qualifying** under ~~IC 12-15-16-1(e).~~ **IC 12-15-16-1(b).**

~~(4) (3)~~ After the state makes all payments under subdivision ~~(3);~~ **(2)**, if the state fails to exceed the state disproportionate share allocation, the state shall make community mental health center disproportionate share provider payments **to providers qualifying** under ~~IC 12-15-16-1(d).~~ **IC 12-15-16-1(c).**

SECTION 18. IC 12-15-19-10.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998 (RETROACTIVE)]: **Sec. 10.1. (a) This section governs disproportionate share payments for the period beginning July 1, 1998, and ending June 30, 1999.**

(b) If the state exceeds the state disproportionate share allocation (as defined in 42 U.S.C. 1396r-4(f)(2)) or the state limit on disproportionate share expenditures for institutions for mental diseases (as defined in 42 U.S.C. 1396r-4(h)), the state shall pay providers as follows:

(1) The state shall make basic disproportionate share provider payments under IC 12-15-16-1(a) until the state exceeds the

state disproportionate share allocation.

(2) After the state makes all payments under subdivision (1), if the state fails to exceed the state disproportionate share allocation, the state shall make municipal disproportionate share provider payments under IC 12-15-16-1(c). The total amount paid to municipal disproportionate share providers under IC 12-15-16-1(c) may not exceed twenty-two million dollars (\$22,000,000).

(3) After the state makes all payments under subdivision (2), if the state fails to exceed the state disproportionate share allocation, the state shall make enhanced disproportionate share provider payments under IC 12-15-16-1(b).

(4) After the state makes all payments under subdivision (3), if the state fails to exceed the state disproportionate share allocation, the state shall make community mental health center disproportionate share provider payments under IC 12-15-16-1(d).

SECTION 19. IC 12-15-20-2, AS AMENDED BY P.L.273-1999, SECTION 174, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999 (RETROACTIVE)]: Sec. 2. The Medicaid indigent care trust fund is established to pay the state's share of the following:

(1) Enhanced disproportionate share payments to providers under ~~IC 12-15-19~~ **IC 12-15-19-1.**

(2) **Disproportionate share payments to providers under IC 12-15-19-2.1.**

~~Disproportionate share payments and significant disproportionate share payments for certain outpatient services under IC 12-15-17-3.~~

(3) Medicaid payments for pregnant women described in IC 12-15-2-13 and infants and children described in IC 12-15-2-14.

(4) Municipal disproportionate share payments to providers under IC 12-15-19-8.

SECTION 20. IC 12-29-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999 (RETROACTIVE)]: Sec. 7.

(a) On the first Monday in October, the county auditor shall certify to:

(1) the division of mental health, for a community mental health

center;

(2) the division of disability, aging, and rehabilitative services, for a community mental retardation and other developmental disabilities center; and

(3) the president of the board of directors of each center;

the amount of money that will be provided to the center under this chapter.

(b) The county payment to the center shall be paid by the county treasurer to the treasurer of each center's board of directors in the following manner:

(1) One-half (1/2) of the county payment to the center shall be made on the second Monday in July.

(2) One-half (1/2) of the county payment to the center shall be made on the second Monday in December.

A county ~~treasurer~~ making a payment under this subsection or from other county sources to a community mental health center that qualifies as a community mental health center disproportionate share provider under ~~IC 12-15-16-1(d)~~ **IC 12-15-16-1** shall certify that the payment represents expenditures eligible for financial participation under 42 U.S.C. 1396b(w)(6)(A) and 42 CFR 433.51. The office of ~~Medicaid policy and planning~~ shall assist a county ~~treasurer~~ in making this certification.

(c) Payments by the county fiscal body:

(1) must be in the amounts:

(A) determined by IC 12-29-2-1 through IC 12-29-2-6; and

(B) authorized by section 1 of this chapter; and

(2) are in place of grants from agencies supported within the county solely by county tax money.

SECTION 21. An emergency is declared for this act.

P.L.114-2000

[H.1354. Approved March 16, 2000.]

AN ACT to amend the Indiana Code concerning economic development.

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

SECTION 1. IC 6-3.1-13-27 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 27. (a) Subject to all other requirements of this chapter, the board may award a tax credit under this chapter to a nonprofit organization that is a high growth company with high skilled jobs (as defined in IC 4-4-10.9-9.5) if:**

(1) the nonprofit organization:

(A) is a taxpayer (as defined in section 10 of this chapter); and

(B) meets all requirements of this chapter; and

(2) all of the following conditions are satisfied:

(A) The wages of at least seventy-five percent (75%) of the organization's total workforce in Indiana must be equal to at least two hundred percent (200%) of the average county wage, as determined by the department of commerce, in the county where the project for which the credit is granted will be located.

(B) The organization must make an investment of at least fifty million dollars (\$50,000,000) in capital assets.

(C) The affected political subdivision must provide substantial financial assistance to the project.

(D) The incremental payroll attributable to the project must be at least ten million dollars (\$10,000,000) annually.

(E) The organization agrees to pay the ad valorem property taxes on the organization's real and personal property that would otherwise be exempt under IC 6-1.1-10.

(F) The organization does not receive any deductions from

the assessed value of the organization's real and personal property under IC 6-1.1-12 or IC 6-1.1-12.1.

(G) The organization pays all of the organization's ad valorem property taxes to the taxing units in the taxing district in which the project is located.

(H) The project for which the credit is granted must be located in a county having a population of more than one hundred eight thousand (108,000) but less than one hundred eight thousand nine hundred fifty (108,950).

(b) Notwithstanding section 6(a) of this chapter, the board may award credits to an organization under subsection (a) if:

(1) the organization met all other conditions of this chapter at the time of the applicant's location or expansion decision;

(2) the applicant is in receipt of a letter from the department of commerce stating an intent to pursue a credit agreement; and

(3) the letter described in subdivision (2) is issued by the department of commerce not later than January 1, 2000.

SECTION 2. An emergency is declared for this act.

P.L.115-2000

[H.1393. Approved March 16, 2000.]

AN ACT to amend the Indiana Code concerning housing.

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

SECTION 1. IC 5-20-5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]:

Chapter 5. Indiana Affordable Housing Fund

Sec. 1. As used in this chapter, "agency" means the agency or other entity that administers the affordable housing program under this chapter.

Sec. 2. As used in this chapter, "authority" means the Indiana housing finance authority.

Sec. 3. As used in this chapter, "eligible entity" refers to a city, town, or county.

Sec. 4. As used in this chapter, "families" has the meaning set forth in 42 U.S.C. 1437a(b)(3)(B).

Sec. 5. As used in this chapter, "fund" means the Indiana affordable housing fund established by section 7 of this chapter.

Sec. 6. As used in this chapter, "lower income families" has the meaning set forth in IC 5-20-4-5.

Sec. 7. The Indiana affordable housing fund is established.

Sec. 8. The purpose of the fund is to provide grants and loans to eligible entities for programs that do any of the following:

- (1) Provide financial assistance to lower income families for the purchase of affordable housing in the form of grants, loans, and loan guarantees.**
- (2) Provide rent and rent supplements to lower income families.**
- (3) Provide loans or grants for the acquisition, construction, rehabilitation, development, operation, and insurance of affordable housing for lower income families.**

Sec. 9. (a) Except as provided in subsection (b), the authority

must distribute the fund as follows:

(1) Thirty-three and one-third percent (33 1/3%) of the fund resources during a state fiscal year shall be provided to eligible entities for rural housing for lower income families.

(2) Thirty-three and one-third percent (33 1/3%) of the fund resources during a state fiscal year shall be provided to eligible entities for urban housing for lower income families.

(3) Thirty-three and one-third percent (33 1/3%) of the fund resources during a state fiscal year shall be distributed to the treasurer of state for deposit in the housing trust fund established by IC 5-20-4-7.

(b) The distributions from the fund prescribed by subsection (a)(3) must be made monthly.

(c) Any amounts in the fund designated for rural housing that have not been used at the end of a state fiscal year may be carried over to the next state fiscal year and distributed to eligible entities for urban housing. Any amount carried over to the next state fiscal year may not be included in the fund balance for the next state fiscal year for purposes of determining the percentage under subsection (a)(2).

Sec. 10. The authority shall administer the fund. Costs of administering the fund shall be paid from money in the fund.

Sec. 11. The fund consists of the following:

(1) Appropriations from the general assembly.

(2) Gifts and grants to the fund.

(3) Investment income earned on the fund's assets.

Sec. 12. The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

Sec. 13. Money in the fund at the end of a state fiscal year does not revert to the state general fund.

Sec. 14. An eligible entity applying for a program grant from the fund must submit an application to the authority.

Sec. 15. An application for a program grant from the fund must include the following:

(1) A detailed description of the program.

(2) Other information required by the authority.

Sec. 16. An eligible entity must allocate at least fifty percent (50%) of the money received for the production, rehabilitation, or

purchase of housing to the production, rehabilitation, or purchase of housing units to be occupied by very low income households.

Sec. 17. An eligible entity must allocate at least fifty percent (50%) of the money received in program grants to a nonprofit corporation (as defined under Section 501(c) of the Internal Revenue Code), to a public housing authority (as defined in IC 36-7-18) or to a unit of government (as defined in IC 36-1-2-23). Money received in program grants that is not allocated to a nonprofit corporation, a public housing authority, or a unit of government may be allocated to private developers of housing and other private development entities as determined by the eligible entity.

Sec. 18. (a) An eligible entity shall establish an affordable housing fund advisory committee consisting of the following eleven (11) members:

- (1) One (1) member appointed by the executive of the eligible entity to represent the interests of low income families.**
- (2) One (1) member appointed by the executive of the eligible entity to represent the interests of owners of subsidized, multifamily housing communities.**
- (3) One (1) member appointed by the executive of the eligible entity to represent the interests of banks and other financial institutions.**
- (4) One (1) member appointed by the executive of the eligible entity to represent the interests of the eligible entity.**
- (5) One (1) member appointed by the executive of the eligible entity to represent real estate brokers or salespersons. The member appointed under this subdivision must be nominated to the executive by the local realtors' association.**
- (6) One (1) member appointed by the executive of the eligible entity to represent construction trades. The member appointed under this subdivision must be nominated to the executive by the local building trades council.**
- (7) Five (5) members appointed by the legislative body of the eligible entity to represent the community at large. Members appointed under this subdivision must be nominated to the legislative body after a general call for nominations from township trustees, community development corporations, neighborhood associations, community based organizations,**

and other social services agencies.

(b) Members of the affordable housing fund advisory committee serve for a term of four (4) years, and are eligible for reappointment. If a vacancy exists on the committee, the appointing authority that appointed the former member whose position has become vacant shall appoint an individual to fill the vacancy. A committee member may be removed at any time by the appointing authority that appointed the committee member.

(c) The affordable housing fund advisory committee shall make recommendations to the eligible entity regarding:

(1) the development of policies and procedures for the uses of the affordable housing fund; and

(2) long term sources of capital for the affordable housing fund, including:

(A) revenue from:

(i) development ordinances;

(ii) fees; or

(iii) taxes;

(B) financial market based income;

(C) revenue derived from private sources; and

(D) revenue generated from grants, gifts, donations, or income in any other form from a:

(i) government program;

(ii) foundation; or

(iii) corporation.

Sec. 19. The authority shall adopt rules under IC 4-22-2 and written policies and procedures necessary to carry out the purposes of this chapter, including the following:

(1) Criteria for grant eligibility.

(2) Development of an application process.

(3) Establishment of a procedure for disbursing loans and grants from the fund.

(4) Establishment of a rate of interest for a loan made under this chapter.

P.L.116-2000

[H.1398. Approved March 16, 2000.]

AN ACT to amend the Indiana Code concerning local government.

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

SECTION 1. IC 14-13-5-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 16. (a) The commission shall prepare and adopt by majority vote an annual budget that shall be submitted to each municipality or agency appropriating money for the use of the commission. After the commission approves the budget, money may be expended only as budgeted unless a majority vote of the commission authorizes other expenditures. If money is appropriated by the commission for the use of a county, a municipality, or an agency, the money may not later be diverted from the county, municipality, or agency without the consent of the county, municipality, or agency.

(b) Any appropriated amounts remaining unexpended or unencumbered at the end of the year **may** become part of a nonreverting cumulative fund to be held in the name of the commission.

(c) The commission may authorize unbudgeted expenditures from the **nonreverting cumulative** fund by a majority vote of the commission.

(d) The commission is responsible for money the commission receives under this chapter. The state board of accounts shall:

- (1) prescribe the methods and forms for keeping; and
- (2) periodically audit;

the accounts, records, and books of the commission.

SECTION 2. IC 36-8-16.5-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 19. A majority of the members of the board constitutes a quorum for purposes of taking action. **Except as provided in section 39(b) of this chapter**, the board may take action approved by a majority of the members of the board.

SECTION 3. IC 36-8-16.5-39 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 39. **(a)** Except as

provided by section 26 of this chapter **and subsection (b)**, the fund must be managed in the following manner:

(1) Three cents (\$0.03) of the emergency wireless 911 fee collected from each subscriber must be held in an interest bearing escrow account to be used for implementation of phase two (2) of the FCC order. The board shall reevaluate the fees placed into escrow not later than May 1, 2000. The board shall determine if the fee should be reduced, remain the same, or be increased based on the latest information available concerning the costs associated with phase two (2) of the FCC order.

(2) At least twenty-five cents (\$0.25) of the emergency wireless 911 fee collected from each subscriber must be held in escrow and used to reimburse CMRS providers for the actual costs incurred by the CMRS providers in complying with the wireless 911 requirements established by the FCC order and rules that are adopted by the FCC under the FCC order, including costs and expenses incurred in designing, upgrading, purchasing, leasing, programming, installing, testing, or maintaining all necessary data, hardware, and software required to provide service as well as the costs of operating the service. Except as provided by section 38 of this chapter, the carrier may only request funds for true cost recovery. The board may increase the amount held in escrow under this subdivision not more than one (1) time a calendar year. If the board adjusts the emergency wireless 911 fee under section 26 of this chapter within a calendar year, an adjustment to the amount held in escrow under this subdivision for the calendar year must be made at that time.

(3) Two percent (2%) of the emergency wireless 911 fee collected from each subscriber may be used by the board to recover the board's expenses in administering this chapter. However, the board may increase this percentage at the time the board may adjust the monthly fee assessed against each CMRS mobile telephone number to allow for full recovery of administration expenses.

(4) Money remaining in the fund must be held in escrow and used for monthly distributions to eligible PSAPs that provide wireless enhanced 911 service and that have submitted written notice to the board. The board shall maintain a list of eligible PSAPs. The

fund held in escrow under this subdivision must be distributed in the following manner:

(A) Ninety-eight percent (98%) must be distributed among the eligible PSAPs based upon the percentage of the state's population (as reported in the most recent official United States census) served by each PSAP.

(B) Two percent (2%) must be distributed among the eligible PSAPs under a formula:

- (i) established by the board; and
- (ii) based on a PSAP's CMRS 911 call volume.

(b) Notwithstanding the requirements described in subsection (a), the board may transfer money between and among the accounts in subsection (a) in accordance with the following procedures:

(1) A transfer must be approved by the affirmative vote of at least eight (8) board members.

(2) The board may make transfers only one (1) time during a calendar year.

(3) The board may not make a transfer that:

(A) impairs cost recovery by CMRS providers or PSAPs;
or

(B) impairs the ability of the board to fulfill its management and administrative obligations described in this chapter.

P.L.117-2000

[S.40. Approved March 17, 2000.]

AN ACT to amend the Indiana Code concerning alcoholic beverages.

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

SECTION 1. IC 7.1-5-7-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 11. (a) The provisions

of sections 9 and 10 of this chapter shall not apply if the public place involved is one (1) of the following:

- (1) Civic center.
- (2) Convention center.
- (3) Sports arena.
- (4) Bowling center.
- (5) Bona fide club.
- (6) Drug store.
- (7) Grocery store.
- (8) Boat.
- (9) Dining car.
- (10) Pullman car.
- (11) Club car.
- (12) Passenger airplane.
- (13) Horse racetrack facility holding a recognized meeting permit under IC 4-31-5.
- (14) Satellite facility (as defined in IC 4-31-2-20.5).
- (15) Catering hall under IC 7.1-3-20-24 that is not open to the public.
- (16) That part of a hotel or restaurant which is separate from a room in which is located a bar over which alcoholic beverages are sold or dispensed by the drink.
- (17) Entertainment complex.
- (18) Indoor golf facility.**
- (19) A recreational facility such as a golf course, bowling center, or similar facility to which IC 7.1-3-16.5-2(c) applies.**

(b) For the purpose of this subsection, "food" means meals prepared on the licensed premises. It is lawful for a minor to be on licensed premises in a room in which is located a bar over which alcoholic beverages are sold or dispensed by the drink if all the following conditions are met:

- (1) The minor is eighteen (18) years of age or older.
- (2) The minor is in the company of a parent, guardian, or family member who is twenty-one (21) years of age or older.
- (3) The purpose for being on the licensed premises is the consumption of food and not the consumption of alcoholic beverages.

P.L.118-2000

[S.62. Approved March 17, 2000.]

AN ACT to amend the Indiana Code concerning pensions.

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

SECTION 1. IC 2-3.5-5-3, AS AMENDED BY P.L.195-1999, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 3. (a) The PERF board shall establish alternative investment programs within the fund, based on the following requirements:

- (1) The PERF board shall maintain at least one (1) alternative investment program that is an indexed stock fund and one (1) alternative investment program that is a bond fund.
- (2) The programs should represent a variety of investment objectives.
- (3) The programs may not permit a member to withdraw money from the member's account, except as provided in section 6 of this chapter.
- (4) All administrative costs of each alternative program shall be paid from the earnings on that program.
- (5) A valuation of each member's account must be completed as of the last day of each quarter.

(b) A member shall direct the allocation of the amount credited to the member among the available alternative investment funds, subject to the following conditions:

- (1) A member may make a selection or change an existing selection at any time, but not more than one (1) time in a twelve (12) month period.
- (2) The PERF board shall implement the member's selection beginning the first day of the next calendar quarter that begins at least thirty (30) days after the selection is received by the PERF board. This date is the effective date of the member's selection.
- (3) A member may select any combination of the available investment funds, in ten percent (10%) increments.

(4) A member's selection remains in effect until a new selection is made.

(5) On the effective date of a member's selection, the board shall reallocate the member's existing balance or balances in accordance with the member's direction, based on the market value on the effective date.

(6) If a member does not make an investment selection of the alternative investment programs, the member's account shall be invested in the ~~bond~~ **PERF board's general investment fund**.

(7) All contributions to the member's account shall be allocated as of the last day of the quarter in which the contributions are received in accordance with the member's most recent effective direction. The PERF board shall not reallocate the member's account at any other time.

(c) When a member transfers the amount credited to the member from one (1) alternative investment program to another alternative investment program, the amount credited to the member shall be valued at the market value of the member's investment, as of the day before the effective date of the member's selection. When a member retires, becomes disabled, dies, or withdraws from the fund, the amount credited to the member shall be the market value of the member's investment as of the last day of the quarter preceding the member's distribution or annuitization at retirement, disability, death, or withdrawal, plus contributions received after that date.

(d) The PERF board shall determine the value of each alternative program in the defined contribution fund, as of the last day of each calendar quarter, as follows:

(1) The market value shall exclude the employer contributions and employee contributions received during the quarter ending on the current allocation date.

(2) The market value as of the immediately preceding quarter end date shall include the employer contributions and employee contributions received during that preceding quarter.

(3) The market value as of the immediately preceding quarter end date shall exclude benefits paid from the fund during the quarter ending on the current quarter end date.

SECTION 2. IC 5-10.2-3-7.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999 (RETROACTIVE)]: Sec. 7.5.

(a) A surviving dependent or surviving spouse of a member who dies in service is entitled to a survivor benefit if:

- (1) the member dies after March 31, 1990;
- (2) the member has:
 - (A) at least ten (10) years of creditable service, if the member died in service as a member of the general assembly;
 - (B) at least fifteen (15) years of creditable service, if the member died in service in any other position covered by the retirement fund; or
 - (C) at least ten (10) years but not more than fourteen (14) years of creditable service if the member:
 - (i) was at least sixty-five (65) years of age; and
 - (ii) died in service in a position covered by the teachers' retirement fund; and
- (3) the surviving dependent or surviving spouse qualifies for a survivor benefit under subsection (b) or (c).

(b) If a member described in subsection (a) dies with a surviving spouse who was married to the member for at least two (2) years, the surviving spouse is entitled to a survivor benefit equal to the monthly benefit that would have been payable to the spouse under the joint and survivor option of IC 5-10.2-4-7 upon the member's death following retirement at:

- (1) fifty (50) years of age; or
- (2) the actual date of death;

whichever is later. However, benefits payable under this subsection are subject to subsections (e) and (g).

(c) If a member described in subsection (a) dies without a surviving spouse who was married to the member for at least two (2) years, but with a surviving dependent, the surviving dependent is entitled to a survivor benefit in a monthly amount equal to the actuarial equivalent of the monthly benefit that would have been payable to the spouse (assuming the spouse would have had the same birth date as the member) under the joint and survivor option of IC 5-10.2-4-7 upon the member's death following retirement at:

- (1) fifty (50) years of age; or
- (2) the actual date of death;

whichever is later. If there are two (2) or more surviving dependents, the actuarial equivalent of the benefit described in this subsection shall

be calculated and, considering the dependents' attained ages, an equal dollar amount shall be determined as the monthly benefit to be paid to each dependent. Monthly benefits under this subsection are payable until the date the dependent becomes eighteen (18) years of age or dies, whichever is earlier. However, if a dependent is permanently and totally disabled (using disability guidelines established by the Social Security Administration) at the date the dependent reaches eighteen (18) years of age, the monthly benefit is payable until the date the dependent is no longer disabled (using disability guidelines established by the Social Security Administration) or dies, whichever is earlier. Benefits payable under this subsection are subject to subsections (e) and (g).

(d) Except as provided in subsections (e) and (h), the surviving spouse or surviving dependent of a member who is entitled to a survivor benefit under subsection (b) or (c) or section 7.6 of this chapter may elect to receive a lump sum payment of the total amount credited to the member in the member's annuity savings account or an amount equal to the member's federal income tax basis in the member's annuity savings account as of December 31, 1986. A surviving spouse or surviving dependent who makes such an election is not entitled to an annuity as part of the survivor benefit under subsection (b) or (c) or section 7.6 of this chapter to the extent of the lump sum payment.

(e) If a member described in subsection (a) or section 7.6(a) of this chapter is survived by a designated beneficiary who is not a surviving spouse or surviving dependent entitled to a survivor benefit under subsection (b) or (c) or section 7.6 of this chapter, the following provisions apply:

(1) If the member is survived by one (1) designated beneficiary, the designated beneficiary is entitled to receive in a lump sum **or over a period of up to five (5) years, as elected by the designated beneficiary**, the amount credited to the member's annuity savings account, less any disability benefits paid to the member.

(2) If the member is survived by two (2) or more designated beneficiaries, the designated beneficiaries are entitled to receive in a lump sum **or over a period of up to five (5) years, as elected by the designated beneficiary**, equal shares of the amount credited to the member's annuity savings account, less any

disability benefits paid to the member.

(3) If the member is also survived by a spouse or dependent who is entitled to a survivor benefit under subsection (b) or (c) or section 7.6 of this chapter, the surviving spouse or dependent is not entitled to an annuity or a lump sum payment as part of the survivor benefit.

(f) If a member dies:

(1) without a surviving spouse or surviving dependent who qualifies for survivor benefits under subsection (b) or (c) or section 7.6 of this chapter; and

(2) without a surviving designated beneficiary who is entitled to receive the member's annuity savings account under subsection (e);

the amount credited to the member's annuity savings account, less any disability benefits paid to the member, shall be paid to the member's estate.

(g) Survivor benefits payable under this section or section 7.6 of this chapter shall be reduced by any disability benefits paid to the member.

(h) Additional annuity contributions, if any, shall not be included in determining survivor benefits under subsection (b) or (c) or section 7.6 of this chapter, but are payable in a lump sum payment to:

(1) the member's surviving designated beneficiary; or

(2) the member's estate, if there is no surviving designated beneficiary.

(i) Survivor benefits provided under this section or section 7.6 of this chapter are subject to IC 5-10.2-2-1.5.

(j) A benefit specified in this section shall be forfeited and credited to the member's retirement fund if no person entitled to the benefit claims it within three (3) years after the member's death. However, the board may honor a claim that is made more than three (3) years after the member's death if the board finds, in the board's discretion, that:

(1) the delay in making the claim was reasonable or other extenuating circumstances justify the award of the benefit to the claimant; and

(2) paying the claim would not cause a violation of the applicable Internal Revenue Service rules.

SECTION 3. IC 5-10.3-11-4.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 4.5. In addition to the

requirements of section 4 of this chapter, each year the state board shall distribute from the pension relief fund to each unit of local government, in two (2) equal installments on or before June 30 and on or before October 1, an amount equal to

~~(1) the amount payable to each surviving spouse in the unit under IC 36-8-6-9.8(c)(2); IC 36-8-7-12.1(b)(2)(A)(ii); or IC 36-8-7.5-13.8(h)(2); minus~~
~~(2)~~

determined under the following STEPS:

STEP ONE: For each surviving spouse in the unit who is a surviving spouse of a member of the 1925 fund, the 1937 fund, or the 1953 fund who dies after December 31, 1988, determine the greater of thirty percent (30%) of the monthly pay of a first class patrolman or firefighter or fifty-five percent (55%) of the monthly benefit the deceased member was receiving or was entitled to receive on the date of the member's death. However, if the deceased member was not entitled to a benefit because the member had not completed twenty (20) years of service, for the purposes of computing the amount under this STEP, the member's benefit is considered to be fifty percent (50%) of the monthly salary of a first class patrolman or first class firefighter.

STEP TWO: Subtract thirty percent (30%) of the salary of a first class patrolman or first class firefighter.

SECTION 4. IC 36-8-6-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 8. (a) **For a member who became disabled before July 1, 2000**, the 1925 fund shall be used to pay a pension in a sum determined by the local board, but not exceeding:

- (1) for a disability or disease occurring before July 1, 1982, fifty percent (50%); and
- (2) for a disability or disease occurring after June 30, 1982, fifty-five percent (55%);

of the salary of a first class patrolman, to a member of the police department who has suffered or contracted a mental or physical disease or disability that renders him unable to perform the essential functions of any duty in the police department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act. If a member who becomes eligible for a disability

pension has more than twenty (20) years of service, he is entitled to receive a disability pension equal to the pension he would have received if he had retired on the date of the disability.

(b) Except as otherwise provided in this subsection, for a member who becomes disabled after June 30, 2000, the 1925 fund shall be used to pay a pension in a sum determined by the local board, but not exceeding fifty-five percent (55%) of the salary of a first class patrolman, to a member of the police department who has suffered or contracted a mental or physical disease or disability:

(1) that is:

(A) the direct result of:

(i) a personal injury that occurs while the fund member is on duty;

(ii) a personal injury that occurs while the fund member is off duty and is responding to an offense or a reported offense, in the case of a police officer; or

(iii) an occupational disease (as defined in IC 22-3-7-10), including a duty related disease that is also included within clause (B); or

(B) a duty related disease (for purposes of this section, a "duty related disease" means a disease arising out of the fund member's employment; a disease is considered to arise out of the fund member's employment if it is apparent to the rational mind, upon consideration of all of the circumstances, that:

(i) there is a connection between the conditions under which the fund member's duties are performed and the disease;

(ii) the disease can be seen to have followed as a natural incident of the fund member's duties as a result of the exposure occasioned by the nature of the fund member's duties; and

(iii) the disease can be traced to the fund member's employment as the proximate cause); and

(2) that renders the member unable to perform the essential functions of any duty in the police department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act.

If a member who becomes eligible for a disability pension has more than twenty (20) years of service, the member is entitled to receive a disability pension equal to the pension the member would have received if the member had retired on the date of the disability.

(c) Except as otherwise provided in this subsection, for a member who becomes disabled after June 30, 2000, the 1925 fund shall be used to pay a pension in a sum determined by the local board, but not exceeding fifty-five percent (55%) of the salary of a first class patrolman, to a member of the police department who has suffered or contracted a mental or physical disease or disability:

(1) that is not described in subsection (b)(1); and

(2) that renders the member unable to perform the essential functions of any duty in the police department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act.

If a member who becomes eligible for a disability pension has more than twenty (20) years of service, the member is entitled to receive a disability pension equal to the pension the member would have received if the member had retired on the date of the disability.

(d) The member must have retired from active service after a physical examination by the police surgeon or another surgeon appointed by the local board. The disability must be determined solely by the local board after the examination and a hearing conducted under IC 36-8-8-12.7. A member shall be retained on active duty with full pay until he is retired by the local board because of the disability.

~~(c)~~ **(e)** After a member has been retired upon pension, the local board may, at any time, require the retired member to again be examined by the police surgeon or another surgeon appointed by the local board. After the examination the local board shall conduct a hearing under IC 36-8-8-12.7 to determine whether the disability still exists and whether the retired member should remain on the pension roll. The retired member shall be retained on the pension roll until reinstated in the service of the police department, except in case of resignation. If after the examination and hearing the retired member is found to have recovered from his disability and to be again fit for active duty, then the member shall be put on active duty with full pay and from that time is no longer entitled to payments from the 1925 fund. If

the member fails or refuses to return to active duty, he waives all rights to further benefits from the 1925 fund.

~~(d)~~ (f) If the salary of a first class patrolman is increased or decreased, the pension payable shall be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below:

~~(A)~~ (1) the amount of the first full monthly pension received by that person; or

~~(B)~~ (2) fifty-five percent (55%) of the salary of a first class patrolman;

whichever is greater.

~~(e)~~ (g) Time spent receiving disability benefits is considered active service for the purpose of determining retirement benefits until the member has a total of twenty (20) years of service.

(h) A fund member who is receiving disability benefits under this chapter shall be transferred from disability to regular retirement status when the member becomes fifty-five (55) years of age.

SECTION 5. IC 36-8-6-8.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 8.1. (a) If a local board determines that a fund member has a temporary or a permanent disability, the local board shall also make a recommendation to the 1977 fund advisory committee concerning whether the disability is:**

(1) a disability in the line of duty (as described in section 8(b)(1) of this chapter); or

(2) a disability not in the line of duty (a disability other than a disability described in section 8(b)(1) of this chapter).

The local board shall forward its recommendation to the 1977 fund advisory committee.

(b) The 1977 fund advisory committee shall review the local board's recommendation not later than forty-five (45) days after receiving the recommendation and shall then issue an initial determination of whether the disability is in the line of duty or not in the line of duty. The 1977 fund advisory committee shall notify the local board, the safety board, and the fund member of its initial determination.

(c) The fund member, the safety board, or the local board may

object in writing to the 1977 fund advisory committee's initial determination under subsection (b) not later than fifteen (15) days after the initial determination is issued. If a written objection is not filed, the 1977 fund advisory committee's initial determination becomes final. If a timely written objection is filed, the 1977 fund advisory committee shall issue a final determination after a hearing. The final determination must be issued not later than one hundred eighty (180) days after the date of receipt of the local board's recommendation.

SECTION 6. IC 36-8-6-9.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 9.6. (a) This section applies to an active or retired member who dies other than in the line of duty (as defined in section 10.1 of this chapter).**

(b) A payment shall be made to the surviving spouse of a deceased member in an amount fixed by ordinance, but at least an amount equal to the following:

(1) To the surviving spouse of a member who died before January 1, 1989, an amount equal to thirty percent (30%) of the monthly pay of a first class patrolman per month during the surviving spouse's life if the spouse did not remarry before September 1, 1983. If the spouse remarried before September 1, 1983, and benefits ceased on the date of remarriage, the benefits for the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse.

(2) Except as otherwise provided in this subdivision, to the surviving spouse of a member who dies after December 31, 1988, an amount per month, during the spouse's life, equal to the greater of:

(A) thirty percent (30%) of the monthly pay of a first class patrolman; or

(B) fifty-five percent (55%) of the monthly benefit the deceased member was receiving or was entitled to receive on the date of the member's death.

However, if the deceased member was not entitled to a benefit because the member had not completed twenty (20) years of service, for purposes of computing the amount under clause (B), the member's benefit shall be considered to be fifty percent (50%) of the monthly salary of a first class

patrolman. The amount provided in this subdivision is subject to adjustment as provided in subsection (e).

(c) Except as otherwise provided in this subsection, a payment shall also be made to each child of a deceased member less than eighteen (18) years of age, in an amount fixed by ordinance, but at least an amount equal to twenty percent (20%) of the monthly pay of a first class patrolman per month:

- (1) until the child becomes eighteen (18) years of age;
- (2) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or
- (3) during the entire period of the child's physical or mental disability;

whichever period is longer. However, the total of benefits under this subsection added to the benefits under subsection (b) may not exceed the maximum benefits computed under section 9 of this chapter for pension payments to a member who retires from active service after twenty (20) years or more of active service. This maximum benefit is equal to fifty percent (50%) of the salary of a first class patrolman in the police department plus, for a member who retired before January 1, 1986, two percent (2%) of the first class patrolman's salary for each year of service of the retired member over twenty (20) years or, for a member who retires after December 31, 1985, plus one percent (1%) of the first class patrolman's salary for each six (6) months of service of the retired member over twenty (20) years. However, the maximum benefit may not exceed in any year an amount greater than seventy-four percent (74%) of the salary of a first class patrolman.

(d) Except as otherwise provided in this subsection, if a deceased member leaves no surviving spouse and no child who qualifies for benefits under subsection (c) but does leave a dependent parent or parents, an amount equal to twenty percent (20%) of the monthly pay of a first class patrolman per month from the time of the member's death shall be paid to the dependent parent or parents during their dependency. When both parents survive, the total amount is still twenty percent (20%), to be paid to them jointly. In all cases of payment to a dependent relative of a deceased member, the board is the final judge of the question of necessity and

dependency and of the amount to be paid. The board may also reduce or terminate temporarily or permanently a payment to a dependent relative of a deceased member when it determines that the condition of the fund or other circumstances make this action necessary.

(e) If the salary of a first class patrolman is increased or decreased, the pension payable under this section shall be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below the amount of the first full monthly pension received by that person.

SECTION 7. IC 36-8-6-9.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 9.7. (a) This section applies to a member who died in the line of duty (as defined in section 10.1 of this chapter) before September 1, 1982.**

(b) A payment shall be made to the surviving spouse of a deceased member in an amount fixed by ordinance, but at least an amount equal to thirty percent (30%) of the monthly pay of a first class patrolman per month during the surviving spouse's life if the spouse did not remarry before September 1, 1983. If the spouse remarried before September 1, 1983, and benefits ceased on the date of remarriage, the benefits for the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse.

(c) Except as otherwise provided in this subsection, a payment shall also be made to each child of a deceased member less than eighteen (18) years of age, in an amount fixed by ordinance, but at least an amount equal to twenty percent (20%) of the monthly pay of a first class patrolman per month to each child:

- (1) until the child becomes eighteen (18) years of age;
- (2) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or
- (3) during the entire period of the child's physical or mental disability;

whichever period is longer. However, the total of benefits under this subsection added to the benefits under subsection (b) may not

exceed the maximum benefits computed under section 9 of this chapter for pension payments to a member who retires from active service after twenty (20) years or more of active service. This maximum benefit is equal to fifty percent (50%) of the salary of a first class patrolman in the police department plus, for a member who retired before January 1, 1986, two percent (2%) of the first class patrolman's salary for each year of service of the retired member over twenty (20) years or, for a member who retires after December 31, 1985, plus one percent (1%) of the first class patrolman's salary for each six (6) months of service of the retired member over twenty (20) years. However, the maximum benefit may not exceed in any year an amount greater than seventy-four percent (74%) of the salary of a first class patrolman.

(d) If a deceased member leaves no surviving spouse and no child who qualifies for benefits under subsection (c) but does leave a dependent parent or parents, an amount equal to twenty percent (20%) of the monthly pay of a first class patrolman per month from the time of the member's death shall be paid to the dependent parent or parents during their dependency. When both parents survive, the total amount is still twenty percent (20%), to be paid to them jointly. In all cases of payment to a dependent relative of a deceased member, the board is the final judge of the question of necessity and dependency and of the amount to be paid. The board may also reduce or terminate temporarily or permanently a payment to a dependent relative of a deceased member when it determines that the condition of the fund or other circumstances make this action necessary.

(e) If the salary of a first class patrolman is increased or decreased, the pension payable under this section shall be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below the amount of the first full monthly pension received by that person.

SECTION 8. IC 36-8-6-9.8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 9.8. (a) Benefits paid under this section are subject to section 1.5 of this chapter.

(b) The 1925 fund shall be used to pay funeral benefits to the heirs or estate of an active or a retired member of the police department who has died from any cause, in an amount fixed by ordinance, but at least:

- (1) one thousand five hundred dollars (\$1,500) for a member who dies before September 1, 1984;
- (2) three thousand dollars (\$3,000) for a member who dies after August 31, 1984, and before July 1, 1994;
- (3) six thousand dollars (\$6,000) for a member who dies after June 30, 1994, and before January 1, 1999; and
- (4) nine thousand dollars (\$9,000) for a member who dies after December 31, 1998.

(c) In addition, a payment shall be made to the surviving spouse of a deceased member, in an amount fixed by ordinance, but at least the following:

(1) To the surviving spouse of a member who dies before January 1, 1989, an amount equal to thirty percent (30%) of the monthly pay of a first class patrolman per month during the surviving spouse's life if the spouse did not remarry before September 1, 1983. If the spouse remarried before September 1, 1983, and benefits ceased on the date of remarriage, the benefits for the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse.

(2) To the surviving spouse of a member who dies after December 31, 1988, an amount per month, during the spouse's life, equal to the greater of:

(A) thirty percent (30%) of the monthly pay of a first class patrolman; or

(B) fifty-five percent (55%) of the monthly benefit the deceased member was receiving or was entitled to receive on the date of the member's death.

However, if the deceased member was not entitled to a benefit because the member had not completed twenty (20) years of service, for the purposes of computing the amount under clause (B), the member's benefit shall be considered to be fifty percent (50%) of the monthly salary of a first class patrolman. The amount provided for in this subdivision is subject to adjustment as provided in subsection (f).

(d) A payment shall also be made to each child of a deceased member under the age of eighteen (18) years, in an amount fixed by ordinance, but at least an amount equal to twenty percent (20%) of the monthly pay of a first class patrolman per month to each child:

- (1) until the child reaches the age of eighteen (18);
- (2) until the child reaches twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or
- (3) during the entire period of the child's physical or mental disability;

whichever period is longer. However, the total of benefits under this subsection added to the benefits under subsection (c) may not exceed the maximum benefits computed under section 9 of this chapter for pension payments to a member who retires from active service after twenty (20) years or more of active service.

(e) If a deceased member leaves no surviving spouse and no child who qualifies for benefits under subsection (d) but does leave a dependent parent or parents, an amount equal to twenty percent (20%) of the monthly pay of a first class patrolman per month from the time of his death shall be paid to the dependent parent or parents during their dependency. When both parents survive, the total amount is still twenty percent (20%); to be paid to them jointly. In all cases of payment to a dependent relative of a deceased member, the board is the final judge of the question of necessity and dependency and of the amount to be paid. The board may also reduce or terminate temporarily or permanently a payment to a dependent relative of a deceased member when it determines that the condition of the fund or other circumstances makes this action necessary.

(f) If the salary of a first class patrolman is increased or decreased, the pension payable under this section shall be proportionately increased or decreased.

SECTION 9. IC 36-8-6-10.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 10.1. (a) **If This section applies to a member who dies in the line of duty after August 31, 1982.**

(b) The surviving spouse is entitled to ~~an additional~~ a monthly benefit, during the spouse's lifetime, equal to ~~the difference between:~~

- (1) the benefit to which the member would have been entitled on the date of the member's death, but no less than fifty percent (50%) of the monthly wage received by a first class patrolman. ~~and~~
- (2) the amount received by the spouse under section 9-8(c) of this

~~chapter.~~

If the surviving spouse remarried before September 1, 1983, and benefits ceased on the date of remarriage, the benefits for the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse.

~~(b)~~ **(c) A payment shall also be made to each child of a deceased member less than eighteen (18) years of age, in an amount fixed by ordinance, but at least an amount equal to twenty percent (20%) of the monthly pay of a first class patrolman per month to each child:**

- (1) until the child becomes eighteen (18) years of age;**
- (2) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or**
- (3) during the entire period of the child's physical or mental disability;**

whichever period is longer.

~~(d)~~ **The surviving children of a spouse receiving benefits under this section the deceased member who are eligible to receive a benefit under subsection (c) may receive an additional benefit in an amount fixed by ordinance, but the total additional benefit under this subsection to all the member's children may not receive more than exceed a total of thirty percent (30%) of the monthly wage received by a first class patrolman. However, this limitation does not apply to the children of a spouse receiving benefits under this section member who are physically or mentally disabled.**

~~(e)~~ **(e) If a deceased member leaves no surviving spouse and no child who qualifies for benefits under subsection (c) but does leave a dependent parent or parents, an amount equal to twenty percent (20%) of the monthly pay of a first class patrolman per month from the time of the member's death shall be paid to the dependent parent or parents during their dependency. When both parents survive, the total amount is still twenty percent (20%), to be paid to them jointly. In all cases of payment to a dependent relative of a deceased member, the board is the final judge of the question of necessity and dependency and of the amount to be paid. The board may also reduce or terminate temporarily or permanently a**

payment to a dependent relative of a deceased member when it determines that the condition of the fund or other circumstances make this action necessary.

(f) If the salary of a first class patrolman is increased or decreased, the pension payable under this section shall be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below the amount of the first full monthly pension received by that person.

(g) For purposes of this section, "dies in the line of duty" means death that occurs as a direct result of personal injury or illness resulting from any action that the member in the member's capacity as a police officer:

(1) is obligated or authorized by rule, regulation, condition of employment or service, or law to perform; **or**

(2) performs in the course of controlling or reducing crime or enforcing the criminal law.

SECTION 10. IC 36-8-7-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 11. (a) Benefits paid under this section are subject to section 2.5 of this chapter.

(b) If a member of the fire department becomes seventy (70) years of age or is found upon examination by a medical officer to be physically or mentally disabled and unable to perform the essential functions of the job, considering reasonable accommodation to the extent required by the Americans with Disabilities Act, so as to make necessary his retirement from all service with the department, the local board shall retire the person.

(c) The local board may retire a person for disability only after a hearing conducted under IC 36-8-8-12.7.

(d) If after the hearing the local board determines that ~~the~~ a person **who became disabled before July 1, 2000**, is disabled and unable to perform the essential functions of the job, considering reasonable accommodation to the extent required by the Americans with Disabilities Act, the local board shall then authorize the monthly payment to the person from the 1937 fund as prescribed by section 12.1 of this chapter. All physical and mental examinations of members of the fire department shall be made on order of the local board by a medical officer designated by the local board.

(c) If a member of the fire department or a retired member of the 1937 fund dies and leaves:

- (1) a surviving spouse;
- (2) a child or children under eighteen (18) years of age;
- (3) a child or children over the age of eighteen (18) years who are mentally or physically incapacitated; or
- (4) a child or children less than twenty-three (23) years of age who are:

(A) enrolled in and regularly attending a secondary school; or

(B) full-time students at an accredited college or university;

the local board shall authorize the payment to the surviving spouse and to the child or children the amount from the fund as prescribed by section 12.1 of this chapter. If the surviving spouse of a deceased member remarried before September 1, 1983, and pension benefits ceased on the date of remarriage, the benefits for the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse. If the pension of the surviving spouse of a deceased member has ceased by virtue of his remarriage, and if the person to whom he has remarried was a retired member of the fire department who was also entitled to a pension, then upon the death of the member to whom he had remarried he is entitled to receive a pension as the surviving spouse of a deceased member as though he had not been remarried.

(d) If a deceased member of the fire department leaves no surviving spouse or children but leaves a dependent parent, and upon satisfactory proof that the parent was wholly dependent upon the deceased member, the local board shall authorize the monthly payment to the parent from the 1937 fund that is prescribed by section 12.1 of this chapter.

(e) If after the hearing under this section and a recommendation under section 12.5 of this chapter, the 1977 fund advisory committee determines that a person who becomes disabled after June 30, 2000:

(1) has a disability that is:

(A) the direct result of:

(i) a personal injury that occurs while the fund member is on duty;

(ii) a personal injury that occurs while the fund member is responding to an emergency or reported emergency

for which the fund member is trained; or
 (iii) an occupational disease (as defined in IC 22-3-7-10), including a duty related disease that is also included within clause (B); or

(B) a duty related disease (for purposes of this section, a "duty related disease" means a disease arising out of the fund member's employment; a disease is considered to arise out of the fund member's employment if it is apparent to the rational mind, upon consideration of all of the circumstances, that:

(i) there is a connection between the conditions under which the fund member's duties are performed and the disease;

(ii) the disease can be seen to have followed as a natural incident of the fund member's duties as a result of the exposure occasioned by the nature of the fund member's duties; and

(iii) the disease can be traced to the fund member's employment as the proximate cause); and

(2) is unable to perform the essential functions of the job, considering reasonable accommodation to the extent required by the Americans with Disabilities Act;

the local board shall then authorize the monthly payment to the person from the 1937 fund of an amount equal to fifty-five percent (55%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension. All physical and mental examinations of members of the fire department shall be made on order of the local board by a medical officer designated by the local board.

(f) If after the hearing under this section and a recommendation under section 12.5 of this chapter, the 1977 fund advisory committee determines that a person who becomes disabled after June 30, 2000:

(1) has a disability that is not a disability described in subsection (e)(1); and

(2) is unable to perform the essential functions of the job, considering reasonable accommodation to the extent required by the Americans with Disabilities Act;

the local board shall then authorize the monthly payment to the

person from the 1937 fund of an amount equal to fifty-five percent (55%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension. All physical and mental examinations of members of the fire department shall be made on order of the local board by a medical officer designated by the local board.

SECTION 11. IC 36-8-7-12.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 12.1. (a) Benefits paid under this section are subject to section 2.5 of this chapter.

(b) The sum that shall be paid to permanently disabled members and to the surviving spouses, children, and parents of deceased members is as follows:

(1) Upon retirement with disability during service, a member is entitled to receive in monthly installments an amount equal to fifty-five percent (55%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension:

(2) If a member dies while in active service or after retirement:

(A) the surviving spouse is entitled to receive an amount fixed by ordinance but not less than:

(i) for the surviving spouse of a member who dies before January 1, 1989, thirty percent (30%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension; and

(ii) for the surviving spouse of a member who dies after December 31, 1988, an amount per month, during the spouse's life, equal to the greater of thirty percent (30%) of the monthly pay of a first class firefighter or fifty-five percent (55%) of the monthly benefit the deceased member was receiving or was entitled to receive on the date of the member's death (these amounts shall be proportionately increased or decreased if the salary of a first class firefighter is increased or decreased); however, if the deceased member was not entitled to a benefit because the member had not completed twenty (20) years of service, for the purposes of computing the second amount under this item, the member's benefit shall be considered to be fifty percent (50%) of the monthly salary of a first class firefighter in the unit at the time of payment of the pension;

(B) the member's children who are:

(i) under eighteen (18) years of age; or
(ii) less than twenty-three (23) years of age if the children are enrolled in and regularly attending a secondary school or are full-time students at an accredited college or university; are each entitled to receive an amount fixed by ordinance but not less than twenty percent (20%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension; and

(C) each parent of a deceased member who was eligible for a pension is entitled to receive jointly an amount equal to thirty percent (30%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension:

(3) If a member dies in the line of duty after August 31, 1982, the surviving spouse is entitled to an additional monthly benefit, during the spouse's lifetime, equal to the difference between the benefit to which the member would have been entitled on the date of the member's death, but not less than fifty percent (50%) of the monthly wage received by a fully paid first class firefighter and the amount received by the spouse under subdivision (2)(A). If the spouse remarried before September 1, 1983, and benefits ceased on the date of remarriage, the benefits for the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse. The children of a spouse receiving benefits under this subdivision may not receive more than a total of thirty percent (30%) of the monthly wage received by a fully paid first class firefighter. However, this limitation does not apply to the children of a spouse receiving benefits under this subdivision who are physically or mentally disabled. For purposes of this subdivision, "dies in the line of duty" means death that occurs as a direct result of personal injury or illness resulting from any action that the member, in the member's capacity as a firefighter, is obligated or authorized by rule, regulation, condition of employment or service, or law to perform while on the scene of an emergency run (including false alarms) or on the way to or from the scene.

If the local board finds upon the submission of satisfactory proof that a child eighteen (18) years of age or older is mentally or physically

incapacitated; is not a ward of the state; and is not receiving a benefit under subdivision (2)(B)(ii); the child is entitled to receive the same amount as is paid to the surviving spouse of a deceased firefighter; as long as the mental or physical incapacity continues. A sum paid for the benefit of a child or children shall be paid to the remaining parent; if alive; as long as the child or children reside with and are supported by the parent. If the parent dies; the sum shall be paid to the lawful guardian of the child or children.

~~(c)~~ (b) A member who has been in service twenty (20) years, upon making a written application to the fire chief, may be retired from all service with the department without a medical examination or disability. Except as provided in subsection ~~(g)~~; (f), the local board shall authorize the payment to the retired member of fifty percent (50%) of the salary of a fully paid first class firefighter of the unit at the time of the payment of the pension, plus:

(1) for a member who retires before January 1, 1986, two percent (2%) of that salary for each year of service; or

(2) for a member who retires after December 31, 1985, one percent (1%) of that salary for each six (6) months of service;

over twenty (20) years. However, the pension in one (1) year may not exceed an amount greater than seventy-four percent (74%) of the salary of a fully paid first class firefighter. ~~The pension of the dependents of retired members is the same if the member dies after retirement as it is for dependents of members who die in the service or after retirement with disability.~~

~~(d)~~ (c) A member who is discharged from the fire department after having served at least twenty (20) years is entitled to receive the amount equal to the amount that the member would have received if the member retired voluntarily. ~~If a member dies after retirement and leaves a surviving spouse or dependent child or children; they are entitled to receive the amount provided for the dependents of members who have died in the service of the fire department.~~

~~(e)~~ (d) All pensions in a class are on an equal basis. The local board may not depart from this chapter in authorizing the payment of pensions.

~~(f)~~ (e) The monthly pension payable to a member ~~or survivor~~ may not be reduced below the amount of the first full monthly pension received by that person.

~~(g)~~ (f) The monthly pension payable to a member who is transferred from disability to regular retirement status may not be reduced below fifty-five percent (55%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension.

~~(h)~~ (g) A benefit payable under this section shall be paid in not less than twelve (12) monthly installments.

(h) A fund member who is receiving disability benefits under this chapter shall be transferred from disability to regular retirement status when the member becomes fifty-five (55) years of age.

SECTION 12. IC 36-8-7-12.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 12.2. (a) This section applies to an active or retired member who dies other than in the line of duty (as defined in section 12.4 of this chapter).**

(b) If a member of the fire department or a retired member of the 1937 fund dies and leaves:

- (1) a surviving spouse;**
- (2) a child or children less than eighteen (18) years of age;**
- (3) a child or children at least eighteen (18) years of age who are mentally or physically incapacitated; or**
- (4) a child or children less than twenty-three (23) years of age who are:**
 - (A) enrolled in and regularly attending a secondary school;**
 - or**
 - (B) full-time students at an accredited college or university;**

the local board shall authorize the payment to the surviving spouse and to the child or children the amount from the fund as prescribed by this section. If the surviving spouse of a deceased member remarried before September 1, 1983, and pension benefits ceased on the date of remarriage, the benefits for the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse. If the pension of the surviving spouse of a deceased member has ceased by virtue of the spouse's remarriage, and if the person to whom the spouse has remarried was a retired member of the fire department who was also entitled to a pension, then upon the death of the member to whom the

spouse had remarried, the spouse is entitled to receive a pension as the surviving spouse of a deceased member as though the spouse had not been remarried.

(c) If a deceased member of the fire department leaves no surviving spouse or children but leaves a dependent parent, and upon satisfactory proof that the parent was wholly dependent upon the deceased member, the local board shall authorize the monthly payment to the parent from the 1937 fund that is prescribed by this section.

(d) If a member dies while in active service or after retirement:

(1) the surviving spouse is entitled to receive an amount fixed by ordinance but not less than:

(A) for the surviving spouse of a member who dies before January 1, 1989, thirty percent (30%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension; and

(B) for the surviving spouse of a member who dies after December 31, 1988, except as otherwise provided in this clause, an amount per month, during the spouse's life, equal to the greater of thirty percent (30%) of the monthly pay of a first class firefighter or fifty-five percent (55%) of the monthly benefit the deceased member was receiving or was entitled to receive on the date of the member's death (these amounts shall be proportionately increased or decreased if the salary of a first class firefighter is increased or decreased); however, if the deceased member was not entitled to a benefit because the member had not completed twenty (20) years of service, for purposes of computing the second amount under this item, the member's benefit is considered to be fifty percent (50%) of the monthly salary of a first class firefighter in the unit at the time of payment of the pension;

(2) the member's children who are:

(A) less than eighteen (18) years of age; or

(B) less than twenty-three (23) years of age if the children are enrolled in and regularly attending a secondary school or are full-time students at an accredited college or university;

are each entitled to receive an amount fixed by ordinance but

not less than twenty percent (20%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension; and

(3) each parent of a deceased member who was eligible for a pension is entitled to receive jointly an amount equal to thirty percent (30%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension.

If the local board finds upon the submission of satisfactory proof that a child eighteen (18) years of age or older is mentally or physically incapacitated, is not a ward of the state, and is not receiving a benefit under subdivision (2)(B), the child is entitled to receive the same amount as is paid to the surviving spouse of a deceased firefighter, as long as the mental or physical incapacity continues. A sum paid for the benefit of a child or children shall be paid to the remaining parent, if alive, as long as the child or children reside with and are supported by the parent. If the parent dies, the sum shall be paid to the lawful guardian of the child or children.

(e) The monthly pension payable to a survivor may not be reduced below the amount of the first full monthly pension received by that person.

(f) A benefit payable under this section shall be paid in not less than twelve (12) monthly installments.

SECTION 13. IC 36-8-7-12.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 12.3. (a) This section applies to a member who died in the line of duty (as defined in section 12.4 of this chapter) before September 1, 1982.

(b) If a member of the fire department or a retired member of the 1937 fund dies and leaves:

- (1) a surviving spouse;
- (2) a child or children less than eighteen (18) years of age;
- (3) a child or children at least eighteen (18) years of age who are mentally or physically incapacitated; or
- (4) a child or children less than twenty-three (23) years of age who are:

(A) enrolled in and regularly attending a secondary school;
or

(B) full-time students at an accredited college or university;

the local board shall authorize the payment to the surviving spouse and to the child or children of the amount from the fund as prescribed by this section. If the surviving spouse of a deceased member remarried before September 1, 1983, and pension benefits ceased on the date of remarriage, the benefits for the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse. If the pension of the surviving spouse of a deceased member has ceased by virtue of the spouse's remarriage, and if the person to whom the spouse has remarried was a retired member of the fire department who was also entitled to a pension, then upon the death of the member to whom the spouse had remarried, the spouse is entitled to receive a pension as the surviving spouse of a deceased member as though the spouse had not been remarried.

(c) If a deceased member of the fire department leaves no surviving spouse or children but leaves a dependent parent, and upon satisfactory proof that the parent was wholly dependent upon the deceased member, the local board shall authorize the monthly payment to the parent from the 1937 fund that is prescribed by this section.

(d) If a member dies while in active service:

(1) the surviving spouse is entitled to receive an amount fixed by ordinance but not less than thirty percent (30%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension;

(2) the member's children who are:

(A) less than eighteen (18) years of age; or

(B) less than twenty-three (23) years of age if the children are enrolled in and regularly attending a secondary school or are full-time students at an accredited college or university;

are each entitled to receive an amount fixed by ordinance but not less than twenty percent (20%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension; and

(3) each parent of a deceased member who was eligible for a pension is entitled to receive jointly an amount equal to thirty

percent (30%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension.

If the local board finds upon the submission of satisfactory proof that a child eighteen (18) years of age or older is mentally or physically incapacitated, is not a ward of the state, and is not receiving a benefit under subdivision (2)(B), the child is entitled to receive the same amount as is paid to the surviving spouse of a deceased firefighter as long as the mental or physical incapacity continues. A sum paid for the benefit of a child or children shall be paid to the remaining parent, if alive, as long as the child or children reside with and are supported by the parent. If the parent dies, the sum shall be paid to the lawful guardian of the child or children.

(e) The monthly pension payable to a survivor may not be reduced below the amount of the first full monthly pension received by that person.

(f) A benefit payable under this section shall be paid in not less than twelve (12) monthly installments.

SECTION 14. IC 36-8-7-12.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 12.4. (a) This section applies to an active member who dies in the line of duty after August 31, 1982.

(b) If a member dies in the line of duty after August 31, 1982, the surviving spouse is entitled to a monthly benefit, during the spouse's lifetime, equal to the benefit to which the member would have been entitled on the date of the member's death, but not less than fifty percent (50%) of the monthly wage received by a fully paid first class firefighter. If the spouse remarried before September 1, 1983, and benefits ceased on the date of remarriage, the benefits for the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse. If the pension of the surviving spouse of a deceased member has ceased by virtue of the spouse's remarriage, and if the person to whom the spouse has remarried was a retired member of the fire department who was also entitled to a pension, then upon the death of the member to whom the spouse had remarried, the spouse is entitled to receive a pension as the surviving spouse of a deceased member as though the spouse had not been remarried.

(c) If a member dies while in active service, the member's children who are:

- (1) less than eighteen (18) years of age; or**
- (2) less than twenty-three (23) years of age if the children are enrolled in and regularly attending a secondary school or are full-time students at an accredited college or university;**

are each entitled to receive an amount fixed by ordinance but not less than twenty percent (20%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension.

(d) The surviving children of the deceased member who are eligible to receive a benefit under subsection (c) may receive an additional benefit in an amount fixed by ordinance, but the total additional benefit under this subsection to all the member's children may not exceed a total of thirty percent (30%) of the monthly wage received by a first class firefighter. However, this limitation does not apply to the children of a member who are physically or mentally disabled.

(e) If a deceased member of the fire department leaves no surviving spouse or children but leaves a dependent parent, and upon satisfactory proof that the parent was wholly dependent upon the deceased member, the local board shall authorize the monthly payment to the parent from the 1937 fund. Each parent of a deceased member who was eligible for a pension under this subsection is entitled to receive jointly an amount equal to thirty percent (30%) of the salary of a fully paid first class firefighter in the unit at the time of the payment of the pension.

(f) For purposes of this section, "dies in the line of duty" means death that occurs as a direct result of personal injury or illness resulting from any action that the member, in the member's capacity as a firefighter:

- (1) is obligated or authorized by rule, regulation, condition of employment or service, or law to perform; or**
- (2) performs while on the scene of an emergency run (including false alarms) or on the way to or from the scene.**

(g) If the local board finds upon the submission of satisfactory proof that a child eighteen (18) years of age or older is mentally or physically incapacitated, is not a ward of the state, and is not receiving a benefit under subsection (c)(2), the child is entitled to

receive the same amount as is paid to the surviving spouse of a deceased firefighter, as long as the mental or physical incapacity continues. A sum paid for the benefit of a child or children shall be paid to the remaining parent, if alive, as long as the child or children reside with and are supported by the parent. If the parent dies, the sum shall be paid to the lawful guardian of the child or children.

(h) The monthly pension payable to a survivor may not be reduced below the amount of the first full monthly pension received by that person.

(i) A benefit payable under this section shall be paid in not less than twelve (12) monthly installments.

SECTION 15. IC 36-8-7-12.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 12.5. (a) If a local board determines that a fund member has a temporary or a permanent disability, the local board shall also make a recommendation to the 1977 fund advisory committee concerning whether the disability is:**

- (1) a disability in the line of duty (as described in section 11(e)(1) of this chapter); or**
- (2) a disability not in the line of duty (a disability other than a disability described in section 11(e)(1) of this chapter).**

The local board shall forward its recommendation to the 1977 fund advisory committee.

(b) The 1977 fund advisory committee shall review the local board's recommendation not later than forty-five (45) days after receiving the recommendation and shall then issue an initial determination of whether the disability is in the line of duty or not in the line of duty. The 1977 fund advisory committee shall notify the local board, the safety board, and the fund member of its initial determination.

(c) The fund member, the safety board, or the local board may object in writing to the 1977 fund advisory committee's initial determination under subsection (b) not later than fifteen (15) days after the initial determination is issued. If a written objection is not filed, the 1977 fund advisory committee's initial determination becomes final. If a timely written objection is filed, the 1977 fund advisory committee shall issue a final determination after a hearing. The final determination must be issued not later than one

hundred eighty (180) days after the date of receipt of the local board's recommendation.

SECTION 16. IC 36-8-7-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 26. (a) As used in this section, "dies in the line of duty" has the meaning set forth in ~~section 12.1~~ **section 12.3** of this chapter.

(b) A special death benefit of seventy-five thousand dollars (\$75,000) for a fund member who dies in the line of duty before January 1, 1998, and one hundred fifty thousand dollars (\$150,000) for a fund member who dies in the line of duty after December 31, 1997, shall be paid in a lump sum by the public employees' retirement fund from the pension relief fund established under IC 5-10.3-11 to the following relative of a fund member who dies in the line of duty:

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

(c) The benefit provided by this section is in addition to any other benefits provided under this chapter.

SECTION 17. IC 36-8-7.5-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 13. (a) **For a member who becomes disabled before July 1, 2000**, the 1953 fund shall be used to pay a pension in an annual sum equal to:

- (1) fifty percent (50%) for a disease or disability occurring before July 1, 1991; and
- (2) fifty-five percent (55%) for a disease or disability occurring after June 30, 1991;

of the salary of a first class patrolman in the police department, computed and payable as prescribed by section 12(b) of this chapter, to an active member of the police department who has been in active service for more than one (1) year and who has suffered or contracted a mental or physical disease or disability that render the member permanently unfit for active duty in the police department, or to an active member of the police department who has been in active service for less than one (1) year who has suffered or received personal injury from violent external causes while in the actual discharge of his duties as a police officer. The pensions provided for in this subsection shall

be paid only so long as the member of the police department remains unfit for active duty in the police department.

(b) For a member who becomes disabled after June 30, 2000, the 1953 fund shall be used to pay a pension in an annual sum equal to fifty-five percent (55%) of the salary of a first class patrolman in the police department, computed on an annual basis and payable in twelve (12) equal monthly installments, to an active member of the police department who:

(1) has suffered or incurred a disability that renders the member permanently unfit for active duty in the police department and that is:

(A) the direct result of:

(i) a personal injury that occurs while the fund member is on duty;

(ii) a personal injury that occurs while the fund member is off duty and is responding to an offense or a reported offense; or

(iii) an occupational disease (as defined in IC 22-3-7-10), including a duty related disease that is also included within clause (B); or

(B) a duty related disease (for purposes of this section, a "duty related disease" means a disease arising out of the fund member's employment; a disease is considered to arise out of the fund member's employment if it is apparent to the rational mind, upon consideration of all of the circumstances, that:

(i) there is a connection between the conditions under which the fund member's duties are performed and the disease;

(ii) the disease can be seen to have followed as a natural incident of the fund member's duties as a result of the exposure occasioned by the nature of the fund member's duties; and

(iii) the disease can be traced to the fund member's employment as the proximate cause); and

(2) is unable to perform the essential functions of the job, considering reasonable accommodation to the extent required by the Americans with Disabilities Act.

The pensions provided for in this subsection shall be paid only so

long as the member of the police department remains unfit for active duty in the police department. If the salary of a first class patrolman is increased or decreased, the pension payable shall be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below the amount of the first full monthly pension received by that person.

(c) For a member who becomes disabled after June 30, 2000, the 1953 fund shall be used to pay a pension in an annual sum equal to fifty-five percent (55%) of the salary of a first class patrolman in the police department, computed on an annual basis and payable in twelve (12) equal monthly installments, to an active member of the police department who has been in active service for at least one (1) year and:

- (1) has suffered or incurred a disability that:
 - (A) renders the member permanently unfit for active duty in the police department; and
 - (B) is not described in subsection (b)(2); and
- (2) is unable to perform the essential functions of the job, considering reasonable accommodation to the extent required by the Americans with Disabilities Act.

The pension provided in this subsection shall be paid only so long as the member of the police department remains unfit for active duty in the police department. If the salary of a first class patrolman is increased or decreased, the pension payable shall be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below the amount of the first full monthly pension received by that person.

(d) For a member who became disabled before July 1, 2000, the 1953 fund shall be used to pay temporary benefits in an annual sum equal to thirty percent (30%) of the salary of a first class patrolman in the police department, computed and payable as prescribed by section 12(a) of this chapter, to an active member of the police department who has been in active service for more than one (1) year and who has suffered any physical or mental disability that renders the member temporarily or permanently unable to perform his duties as a member of the police department, or to an active member of the police

department who has been in active service for less than one (1) year and who has suffered or received personal injury from violent external causes while in the actual discharge of his duties as a police officer, until the time the member is physically and mentally able to return to active service on the police department.

(e) For a member who becomes disabled after June 30, 2000, the 1953 fund shall be used to pay a pension in an annual sum equal to thirty percent (30%) of the salary of a first class patrolman in the police department, computed on an annual basis and payable in twelve (12) equal monthly installments, to an active member of the police department who:

(1) suffers or incurs a disability that renders the member temporarily unfit for active duty in the police department and that is:

(A) the direct result of:

(i) a personal injury that occurs while the fund member is on duty;

(ii) a personal injury that occurs while the fund member is off duty and is responding to an offense or a reported offense, in the case of a police officer; or

(iii) an occupational disease (as defined in IC 22-3-7-10), including a duty related disease that is also included within clause (B); or

(B) a duty related disease (for purposes of this section, a "duty related disease" means a disease arising out of the fund member's employment; a disease is considered to arise out of the fund member's employment if it is apparent to the rational mind, upon consideration of all of the circumstances, that:

(i) there is a connection between the conditions under which the fund member's duties are performed and the disease;

(ii) the disease can be seen to have followed as a natural incident of the fund member's duties as a result of the exposure occasioned by the nature of the fund member's duties; and

(iii) the disease can be traced to the fund member's employment as the proximate cause); and

(2) is unable to perform the essential functions of the job,

considering reasonable accommodation to the extent required by the Americans with Disabilities Act.

The pension provided in this subsection shall be paid only so long as the member of the police department remains unfit for active duty in the police department. If the salary of a first class patrolman is increased or decreased, the pension payable shall be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below the amount of the first full monthly pension received by that person.

(f) For a member who becomes disabled after June 30, 2000, the 1953 fund shall be used to pay temporary benefits in an annual sum equal to thirty percent (30%) of the salary of a first class patrolman in the police department, computed on an annual basis and payable in twelve (12) equal monthly installments, to an active member of the police department:

- (1) who has been in active service for at least one (1) year;**
- (2) suffers or incurs a disability that:**
 - (A) renders the member temporarily unfit for active duty in the police department; and**
 - (B) is not described in subsection (b)(2); and**
- (3) is unable to perform the essential functions of the job, considering reasonable accommodation to the extent required by the Americans with Disabilities Act.**

The pension provided for in this subsection shall be paid only so long as the member of the police department remains unfit for active duty in the police department. If the salary of a first class patrolman is increased or decreased, the pension payable shall be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below the amount of the first full monthly pension received by that person.

(g) If an application is made by an active member of the police department because of physical or mental disability for temporary benefits as provided in subsection ~~(a)~~ or ~~(b)~~; **(d), **(e)**, or **(f)**, the benefit is not payable until the local board determines after a hearing conducted under IC 36-8-8-12.7 that the member is unfit for active duty on the police department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act. Before the**

hearing, a physician to be appointed by the local board shall examine the member and certify in writing whether in his opinion the member is unfit, physically or mentally, for active duty in the police department. After the pension or benefit has been granted by the local board, the payment commences with the original date of the injury or illness causing the disability.

~~(d)~~ **(h)** A member who has been granted a disability benefit under ~~subsection (a) or (b) this section~~ and who fails or refuses to submit to a physical examination at any time by the local board physician has no right in the future to receive the disability benefit, and any benefit that has been granted shall be immediately canceled by the local board.

~~(e)~~ **(i)** The local board may, from time to time, require a member of the police department who is receiving at any time disability benefits or pensions as provided in ~~subsection (a) or (b) this section~~ to be examined by the physician appointed by the local board. After the examination, the local board shall conduct a hearing under IC 36-8-8-12.7 to determine whether the disability still exists and whether the member should continue to receive the pension or benefit. If after the examination and hearing the member is found to have recovered from his disability and is fit for active duty on the police department, then upon written notice to the member by the local board, the member shall be reinstated in active service, the safety board shall be informed of the action of the local board, and from that time the member is no longer entitled to payments from the 1953 fund. If the member fails or refuses to return to active duty after ordered by the local board, he ceases to be a member of the 1953 fund and waives all rights to any further pensions or benefits provided by the 1953 fund.

~~(f)~~ **(j)** Notwithstanding any other provision of this chapter, no disability benefit may be paid for any disability based upon or caused by any mental or physical condition that a member had at the time he entered or reentered his active service in the police department.

~~(g)~~ **(k)** If a member who is receiving disability benefits under subsection (a), **(b)**, or **(c)** for a disease or disability occurring after June 30, 1991, is transferred from disability to regular retirement status, the member's monthly pension may not be reduced below fifty-five percent (55%) of the salary of a first class patrolman at the time of payment of the pension.

~~(h)~~ **(l)** To the extent required by the Americans with Disabilities

Act, the transcripts, reports, records, and other material compiled to determine the existence of a disability shall be:

- (1) kept in separate medical files for each member; and
- (2) treated as confidential medical records.

(m) A fund member who is receiving disability benefits under this chapter shall be transferred from disability to regular retirement status when the member becomes fifty-five (55) years of age.

SECTION 18. IC 36-8-7.5-13.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 13.2. (a) If a local board determines that a fund member has a temporary or a permanent disability, the local board shall also make a recommendation to the 1977 fund advisory committee concerning whether the disability is:**

- (1) a disability in the line of duty (as described in section 13(b)(1) of this chapter); or**
- (2) a disability not in the line of duty (a disability other than a disability described in section 13(b)(1) of this chapter).**

The local board shall forward its recommendation to the 1977 fund advisory committee.

(b) The 1977 fund advisory committee shall review the local board's recommendation not later than forty-five (45) days after receiving the recommendation and shall then issue an initial determination of whether the disability is in the line of duty or not in the line of duty. The 1977 fund advisory committee shall notify the local board, the safety board, and the fund member of its initial determination.

(c) The fund member, the safety board, or the local board may object in writing to the 1977 fund advisory committee's initial determination under subsection (b) not later than fifteen (15) days after the initial determination is issued. If a written objection is not filed, the 1977 fund advisory committee's initial determination becomes final. If a timely written objection is filed, the 1977 fund advisory committee shall issue a final determination after a hearing. The final determination must be issued not later than one hundred eighty (180) days after the date of receipt of the local board's recommendation.

SECTION 19. IC 36-8-7.5-13.6 IS ADDED TO THE INDIANA

CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 13.6. (a) This section applies to an active or retired member who dies other than in the line of duty (as defined in section 14.1 of this chapter).**

(b) The 1953 fund shall be used to pay an annuity, computed under subsection (g) and payable in monthly installments, to the surviving spouse of a member of the fund who dies from any cause after having served for one (1) year or more. The annuity continues during the life of the surviving spouse unless the spouse remarried before September 1, 1983. If the spouse remarried before September 1, 1983, benefits ceased on the date of remarriage. If a member of the fund died, but not in the line of duty, and the member's surviving spouse remarried before September 1, 1983, the benefits of the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse.

(c) The 1953 fund shall also be used to pay an annuity equal to twenty percent (20%) of the salary of a first class patrolman on the police department, computed as provided in section 12(b) of this chapter and payable in monthly installments, to each dependent child of a member of the fund who dies from any cause after having served for one (1) year or more as an active member of the police department. The pension to each child continues:

- (1) until the child becomes eighteen (18) years of age;**
- (2) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or**
- (3) during the entire period of the child's physical or mental disability;**

whichever period is longer. However, the pension to the child ceases if the child marries or is legally adopted by any person.

(d) If a deceased member leaves no surviving spouse and no child who qualifies for a benefit under subsection (c) but does leave a dependent parent or parents, the 1953 fund is used to pay an annuity not greater than a sum equal to twenty percent (20%) of the salary of a first class patrolman on the police department, computed and payable as provided in section 12(b) of this chapter, payable monthly to the dependent parent or parents of a member of the police department who dies from any cause after having

served for one (1) year or more as an active member of the police department. The annuity continues for the remainder of the life or lives of the parent or parents as long as either or both fail to have sufficient other income for their proper care, maintenance, and support.

(e) In all cases of payment to a dependent relative of a deceased member, the local board is the final judge of the question of necessity and dependency and of the amount within the stated limits to be paid. The local board may also reduce or terminate temporarily or permanently a payment to a dependent relative of a deceased member when it determines that the condition of the 1953 fund or other circumstances make this action necessary.

(f) If the salary of a first class patrolman is increased or decreased, the pension payable under this section shall be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below the amount of the first full monthly pension received by that person.

(g) Except as otherwise provided in this subsection, the annuity payable under subsection (b) equals one (1) of the following:

(1) For the surviving spouse of a member who dies before January 1, 1989, thirty percent (30%) of the salary of a first class patrolman.

(2) For the surviving spouse of a member who dies after December 31, 1988, an amount per month during the spouse's life equal to the greater of:

(A) thirty percent (30%) of the monthly pay of a first class patrolman; or

(B) fifty-five percent (55%) of the monthly benefit the deceased member was receiving or was entitled to receive on the date of the member's death.

However, if the deceased member was not entitled to a benefit because the member had not completed twenty (20) years of service, for the purposes of computing the amount under subdivision (2)(B) the member's benefit is considered to be fifty percent (50%) of the monthly salary of a first class patrolman. The amount provided in this subdivision is subject to adjustment as provided in subsection (f).

SECTION 20. IC 36-8-7.5-13.7 IS ADDED TO THE INDIANA

CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 13.7. (a) This section applies to a member who died in the line of duty (as defined in section 14.1 of this chapter) before September 1, 1982.**

(b) The 1953 fund shall be used to pay an annuity, computed under subsection (g) and payable in monthly installments, to the surviving spouse of a member. The annuity continues during the life of the surviving spouse unless the spouse remarried before September 1, 1983. If the spouse remarried before September 1, 1983, benefits ceased on the date of remarriage. If a member of the fund died, but not in the line of duty, and the member's surviving spouse remarried before September 1, 1983, the benefits of the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse.

(c) The 1953 fund shall also be used to pay an annuity equal to twenty percent (20%) of the salary of a first class patrolman on the police department, computed as provided in section 12(b) of this chapter and payable in monthly installments, to each dependent child of a member of the fund who dies from any cause while in the actual discharge of duties as a police officer. The pension to each child continues:

- (1) until the child becomes eighteen (18) years of age;**
- (2) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or**
- (3) during the entire period of the child's physical or mental disability;**

whichever period is longer. However, the pension to the child ceases if the child marries or is legally adopted by any person.

(d) If a deceased member leaves no surviving spouse and no child who qualifies for a benefit under subsection (c) but does leave a dependent parent or parents, the 1953 fund shall be used to pay an annuity not greater than a sum equal to twenty percent (20%) of the salary of a first class patrolman on the police department, computed and payable as provided in section 12(b) of this chapter, payable monthly to the dependent parent or parents of a member of the police department. The annuity continues for the remainder of the life or lives of the parent or parents as long as either or both

fail to have sufficient other income for their proper care, maintenance, and support.

(e) In all cases of payment to a dependent relative of a deceased member, the local board is the final judge of the question of necessity and dependency and of the amount within the stated limits to be paid. The local board may also reduce or terminate temporarily or permanently a payment to a dependent relative of a deceased member when it determines that the condition of the 1953 fund or other circumstances make this action necessary.

(f) If the salary of a first class patrolman is increased or decreased, the pension payable under this section shall be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced below the amount of the first full monthly pension received by that person.

(g) The annuity payable under subsection (b) equals thirty percent (30%) of the salary of a first class patrolman. The amount provided in this subsection is subject to adjustment as provided in subsection (f).

SECTION 21. IC 36-8-7.5-13.8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 13.8. (a) Benefits paid under this section are subject to section 1.5 of this chapter.

(b) The 1953 fund shall be used to pay to the beneficiary or estate of a member of the fund, active or retired, who:

- (1) dies from any cause after having served for one (1) year or more as an active member of the police department; or
- (2) dies from any cause while in the actual discharge of his duties as a police officer after having served less than one (1) year as an active member of the police department;

fifteen hundred dollars (\$1,500) for a member who died before September 1, 1984, three thousand dollars (\$3,000) for a member who dies after August 31, 1984, and before July 1, 1994, six thousand dollars (\$6,000) for a member who dies after June 30, 1994, and before January 1, 1999, and nine thousand dollars (\$9,000) for a member who dies after December 31, 1998. Any member of the fund may name a beneficiary to receive the amount provided for upon his death by designating in writing in such form as is prescribed by the local board and delivered to the board. The beneficiary may be changed from time

to time by the member by canceling the designation and delivering a new designation to the local board. If the member makes no designation of beneficiary, the sum provided for shall be paid to the member's estate.

(c) In addition, the 1953 fund shall be used to pay an annuity, computed under subsection (h) and payable in monthly installments, to the surviving spouse of a member of the fund who:

- (1) dies from any cause after having served for one (1) year or more; or
- (2) dies from any cause while in the actual discharge of his duties as a police officer after having served less than one (1) year as an active member of the police department.

The annuity continues during the life of the surviving spouse unless the spouse remarried before September 1, 1983. If the spouse remarried before September 1, 1983, benefits ceased on the date of remarriage. However, if a member of the police department died in the line of duty and the member's surviving spouse remarried before September 1, 1983, the benefits for the surviving spouse shall be reinstated on July 1, 1995, and continue during the life of the surviving spouse. If a member of the fund died, but not in the line of duty, and the member's surviving spouse remarried before September 1, 1983, the benefits of the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse.

(d) The 1953 fund shall also be used to pay an annuity equal to twenty percent (20%) of the salary of a first class patrolman on the police department, computed as provided in section 12(b) of this chapter and payable in monthly installments, to each dependent child of a member of the fund who dies from any cause after having served for one (1) year or more as an active member of the police department or dies from any cause while in the actual discharge of his duties as a police officer after having served less than one (1) year as an active member of the police department. The pension to each child continues:

- (1) until the child attains the age of eighteen (18) years;
- (2) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or
- (3) during the entire period of the child's physical or mental disability;

whichever period is longer. However, the pension to the child ceases if the child marries or is legally adopted by any person.

(e) If a deceased member leaves no surviving spouse and no child who qualifies for a benefit under subsection (d) but does leave a dependent parent or parents, the 1953 fund shall be used to pay an annuity not greater than a sum equal to twenty percent (20%) of the salary of a first class patrolman on the police department; computed and payable as provided in section 12(b) of this chapter; payable monthly to the dependent parent or parents of a member of the police department who:

(1) dies from any cause after having served for one (1) year or more as an active member of the police department; or

(2) dies from any cause while in the actual discharge of his duties as a police officer after having served less than one (1) year as an active member of the police department.

The annuity continues for the remainder of the life or lives of the parent or parents as long as either or both fail to have sufficient other income for their proper care, maintenance, and support.

(f) In all cases of payment to a dependent relative of a deceased member, the local board is the final judge of the question of necessity and dependency and of the amount within the stated limits to be paid. The local board may also reduce or terminate temporarily or permanently a payment to a dependent relative of a deceased member when it determines that the condition of the 1953 fund or other circumstances make this action necessary.

(g) If the salary of a first class patrolman is increased or decreased, the pension payable under this section shall be proportionately increased or decreased.

(h) The annuity payable under subsection (c) equals one (1) of the following:

(1) For the surviving spouse of a member who dies before January 1, 1989, thirty percent (30%) of the salary of a first class patrolman.

(2) For the surviving spouse of a member who dies after December 31, 1988, an amount per month during the spouse's life equal to the greater of:

(A) thirty percent (30%) of the monthly pay of a first class patrolman; or

~~(B)~~ fifty-five percent (55%) of the monthly benefit the deceased member was receiving or was entitled to receive on the date of the member's death:

However, if the deceased member was not entitled to a benefit because the member had not completed twenty (20) years of service, for the purposes of computing the amount under clause ~~(B)~~ the member's benefit shall be considered to be fifty percent (50%) of the monthly salary of a first class patrolman. The amount provided for in this subdivision is subject to adjustment as provided in subsection ~~(g)~~:

SECTION 22. IC 36-8-7.5-14.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 14.1. (a) **This section applies to an active member who dies in the line of duty after August 31, 1982.**

(b) If a member dies in the line of duty after August 31, 1982, the surviving spouse is entitled to ~~an additional~~ a monthly benefit, during the spouse's lifetime, equal to the ~~difference between:~~

~~(1) the~~ benefit to which the member would have been entitled on the date of the member's death, but not less than fifty percent (50%) of the monthly wage received by a first class patrolman.
and

~~(2) the amount received by the spouse under section 13.8(c) of this chapter:~~

If the spouse remarried before September 1, 1983, benefits ceased on the date of remarriage. However, if a member of the police department dies in the line of duty after August 31, 1982, and the member's surviving spouse remarried before September 1, 1983, the benefits for the surviving spouse shall be reinstated on July 1, 1995, and continue during the life of the surviving spouse.

~~(b)~~ **(c) The 1953 fund shall also be used to pay an annuity equal to twenty percent (20%) of the salary of a first class patrolman on the police department, computed as provided in section 12(b) of this chapter and payable in monthly installments, to each dependent child of a member of the fund who dies from any cause while in the actual discharge of duties as a police officer. The pension to each child continues:**

- (1) until the child becomes eighteen (18) years of age;**
- (2) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary**

school or is a full-time student at an accredited college or university; or

(3) during the entire period of the child's physical or mental disability;

whichever period is longer. However, the pension to the child ceases if the child marries or is legally adopted by any person.

(d) The surviving children of a spouse receiving benefits under this section the deceased member who are eligible to receive a benefit under subsection (c) may receive an additional benefit in an amount fixed by ordinance, but the total benefit to all the member's children under this subsection may not receive more than exceed a total of thirty percent (30%) of the monthly wage received by a first class patrolman. However, this limitation does not apply to the children of a spouse receiving benefits under this section member who are physically or mentally disabled.

(e) If a deceased member leaves no surviving spouse and no child who qualifies for a benefit under subsection (c) but does leave a dependent parent or parents, the 1953 fund shall be used to pay an annuity not greater than a sum equal to twenty percent (20%) of the salary of a first class patrolman on the police department, computed and payable as provided in section 12(b) of this chapter, payable monthly to the dependent parent or parents of a member of the police department who dies from any cause while in the actual discharge of duties as a police officer. The annuity continues for the remainder of the life or lives of the parent or parents as long as either or both fail to have sufficient other income for their proper care, maintenance, and support.

(f) In all cases of payment to a dependent relative of a deceased member, the local board is the final judge of the question of necessity and dependency and of the amount within the stated limits to be paid. The local board may also reduce or terminate temporarily or permanently a payment to a dependent relative of a deceased member when it determines that the condition of the 1953 fund or other circumstances make this action necessary.

(g) If the salary of a first class patrolman is increased or decreased, the pension payable under this section shall be proportionately increased or decreased. However, the monthly pension payable to a member or survivor may not be reduced

below the amount of the first full monthly pension received by that person.

~~(c)~~ **(h)** For purposes of this section, "dies in the line of duty" means death that occurs as a direct result of personal injury or illness resulting from any action that the member, in the member's capacity as a police officer:

(1) is obligated or authorized by rule, regulation, condition of employment or service, or law to perform; **or**

(2) performs in the course of controlling or reducing crime or enforcing the criminal law.

SECTION 23. IC 36-8-8-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 12. (a) Benefits paid under this section are subject to sections 2.5 and 2.6 of this chapter.

(b) If an active fund member has a covered impairment, as determined under sections 12.3 through 13.1 of this chapter, the member is entitled to receive the benefit prescribed by section 13.3 or 13.5 of this chapter. A member who has had a covered impairment and returns to active duty with the department shall not be treated as a new applicant seeking to become a member of the 1977 fund.

(c) If a retired fund member who has not yet reached the member's fifty-second birthday is found by the PERF board to be permanently or temporarily unable to perform all suitable work for which the member is or may be capable of becoming qualified, the member is entitled to receive during the disability the retirement benefit payments payable at fifty-two (52) years of age. During a reasonable period in which a disabled fund member is becoming qualified for suitable work, the member may continue to receive disability benefit payments. However, benefits payable for disability under this subsection are reduced by amounts for which the fund member is eligible from:

(1) a plan or policy of insurance providing benefits for loss of time because of disability;

(2) a plan, fund, or other arrangement to which the fund member's employer has contributed or for which the fund member's employer has made payroll deductions, including a group life policy providing installment payments for disability, a group annuity contract, or a pension or retirement annuity plan other than the fund established by this chapter;

(3) the federal Social Security Act (42 U.S.C. 401 et seq.), the

Railroad Retirement Act (45 U.S.C. 231 et seq.), the United States Department of Veterans Affairs, or another federal, state, local, or other governmental agency;

(4) worker's compensation payable under IC 22-3; and

(5) a salary or wage, including overtime and bonus pay and extra or additional remuneration of any kind, the fund member receives or is entitled to receive from the member's employer.

For the purposes of this subsection, a retired fund member is considered eligible for benefits from subdivisions (1) through (5) whether or not the member has made application for the benefits.

(d) Notwithstanding any other law, a plan, policy of insurance, fund, or other arrangement:

(1) delivered, issued for delivery, amended, or renewed after April 9, 1979; and

(2) described in subsection (c)(1) or (c)(2);

may not provide for a reduction or alteration of benefits as a result of benefits for which a fund member may be eligible from the 1977 fund under subsection (c).

(e) Time spent receiving disability benefits is considered active service for the purpose of determining retirement benefits until the fund member has a total of twenty (20) years of service.

(f) A fund member who is receiving disability benefits under this chapter shall be transferred from disability to regular retirement status when the member becomes fifty-five (55) years of age.

SECTION 24. IC 36-8-8-12.7, AS AMENDED BY P.L.195-1999, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 12.7. (a) This section applies to hearings conducted by local boards concerning determinations of impairment under this chapter or of disability under IC 36-8-5-2(g), IC 36-8-6, IC 36-8-7, and IC 36-8-7.5.

(b) At least five (5) days before the hearing, the local board shall give notice to the fund member and the safety board of the time, date, and place of the hearing.

(c) The local board must hold a hearing not more than ninety (90) days after the fund member requests the hearing.

(d) At the hearing, the local board shall permit the fund member and the safety board to:

(1) be represented by any individual;

- (2) through witnesses and documents, present evidence;
- (3) conduct cross-examination; and
- (4) present arguments.

(e) At the hearing, the local board shall require all witnesses to be examined under oath, which may be administered by a member of the local board.

(f) The local board shall, at the request of the fund member or the safety board, issue:

- (1) subpoenas;
- (2) discovery orders; and
- (3) protective orders;

in accordance with the Indiana Rules of Trial Procedure that govern discovery, depositions, and subpoenas in civil actions.

(g) The local board shall have the hearing recorded so that a transcript may be made of the proceedings.

(h) After the hearing, the local board shall make its determinations, including findings of fact, in writing and shall provide copies of its determinations to the fund member and the safety board not more than thirty (30) days after the hearing.

(i) If the local board:

- (1) does not hold a hearing within the time required under subsection (c); or
- (2) does not issue its determination within the time required under subsection (h);

the fund member shall be considered to be totally impaired for purposes of section 13.5 of this chapter and, if the issue before the local board concerns the class of the member's impairment, the member shall be considered to have a Class 1 impairment.

(j) The local board may on its own motion issue:

- (1) subpoenas;
- (2) discovery orders; and
- (3) protective orders;

in accordance with the Indiana Rules of Trial Procedure that govern discovery, depositions, and subpoenas in civil actions.

(k) At the hearing, the local board may exclude evidence that is irrelevant, immaterial, unduly repetitious, or excludable on the basis of evidentiary privilege recognized by the courts.

(l) At the hearing, the local board may request the testimony of

witnesses and the production of documents.

(m) If a subpoena or order is issued under this section, the party seeking the subpoena or order shall serve it in accordance with the Indiana Rules of Trial Procedure. However, if the subpoena or order is on the local board's own motion, the sheriff of the county in which the subpoena or order is to be served shall serve it. A subpoena or order under this section may be enforced in the circuit or superior court of the county in which the subpoena or order is served.

(n) With respect to a hearing conducted for purposes of determining disability under IC 36-8-6, IC 36-8-7, or IC 36-8-7.5, the determination of the local board after a hearing is final and may be appealed to the court.

(o) With respect to a hearing conducted for purposes of determining impairment or class of impairment under this chapter, the fund member may appeal the local board's determinations. An appeal under this subsection:

- (1) must be made in writing;
- (2) must state the class of impairment and the degree of impairment that is claimed by the fund member;
- (3) must include a written determination by the chief of the police or fire department stating that there is no suitable and available work; and
- (4) must be filed with the local board and the PERF board's director no later than thirty (30) days after the date on which the fund member received a copy of the local board's determinations.

(p) To the extent required by the Americans with Disabilities Act, the transcripts, records, reports, and other materials generated as a result of a hearing, review, or appeal conducted to determine an impairment under this chapter or a disability under IC 36-8-6, IC 36-8-7, or IC 36-8-7.5 must be:

- (1) retained in the separate medical file created for the member; and
- (2) treated as a confidential medical record.

(q) If a local board determines that a fund member described in section 13.3(a) of this chapter has a covered impairment, the local board shall also make a recommendation to the 1977 fund advisory committee concerning whether the covered impairment is an impairment described in section 13.3(c) of this chapter or whether

it is an impairment described in section 13.3(d) of this chapter. The local board shall forward its recommendation to the 1977 fund advisory committee.

(r) The 1977 fund advisory committee shall review the local board's recommendation not later than forty-five (45) days after receiving the recommendation and shall then issue an initial determination of whether the disability is in the line of duty or not in the line of duty. The 1977 fund advisory committee shall notify the local board, the safety board, and the fund member of its initial determination.

(s) The fund member, the safety board, or the local board may object in writing to the 1977 fund advisory committee's initial determination under subsection (r) not later than fifteen (15) days after the initial determination is issued. If a written objection is not filed, the 1977 fund advisory committee's initial determination becomes final. If a timely written objection is filed, the 1977 fund advisory committee shall issue a final determination after a hearing. The final determination must be issued not later than one hundred eighty (180) days after the date of receipt of the local board's recommendation.

SECTION 25. IC 36-8-8-13.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 13.3. (a) This section applies only to a fund member who:

- (1) is hired for the first time before January 1, 1990; and
- (2) does not choose coverage by sections 12.5 and 13.5 of this chapter under section 12.4 of this chapter.

This section does not apply to a fund member described in section 12.3(c)(2) of this chapter.

(b) A fund member:

- (1) who **became disabled before July 1, 2000;**
- (2) is determined to have a covered impairment; and
- (3) for whom it is determined that there is no suitable and available work within the fund member's department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act;

is entitled to receive during the disability a benefit equal to the benefit that the fund member would have received if the fund member had retired. If the disabled fund member does not have at least twenty (20)

years of service or is not at least fifty-two (52) years of age, the benefit is computed and paid as if the fund member had twenty (20) years of service and was fifty-two (52) years of age.

(c) Except as otherwise provided in this subsection, a fund member:

(1) who becomes disabled after July 1, 2000;

(2) who is determined to have a covered impairment that is:

(A) the direct result of:

(i) a personal injury that occurs while the fund member is on duty;

(ii) a personal injury that occurs while the fund member is off duty and is responding to an offense or a reported offense, in the case of a police officer, or an emergency or reported emergency for which the fund member is trained, in the case of a firefighter; or

(iii) an occupational disease (as defined in IC 22-3-7-10), including a duty related disease that is also included within clause (B); or

(B) a duty related disease (for purposes of this section, a "duty related disease" means a disease arising out of the fund member's employment; a disease is considered to arise out of the fund member's employment if it is apparent to the rational mind, upon consideration of all of the circumstances, that:

(i) there is a connection between the conditions under which the fund member's duties are performed and the disease;

(ii) the disease can be seen to have followed as a natural incident of the fund member's duties as a result of the exposure occasioned by the nature of the fund member's duties; and

(iii) the disease can be traced to the fund member's employment as the proximate cause); and

(3) for whom it is determined that there is no suitable and available work within the fund member's department, considering reasonable accommodation to the extent required by the Americans with Disabilities Act;

is entitled to receive during the disability a benefit equal to the benefit that the fund member would have received if the fund

member had retired. If the disabled fund member does not have at least twenty (20) years of service or is not at least fifty-two (52) years of age, the benefit is computed and paid as if the fund member had twenty (20) years of service and was fifty-two (52) years of age.

(d) Except as otherwise provided in this subsection, a fund member:

- (1) who becomes disabled after July 1, 2000;**
- (2) who is determined to have a covered impairment that is not a covered impairment described in subsection (c)(2)(A) or (c)(2)(B); and**
- (3) for whom it is determined that there is no suitable and available work within the fund member's department, considering reasonable accommodation to the extent required by the federal Americans with Disabilities Act;**

is entitled to receive during the disability a benefit equal to the benefit that the fund member would have received if the fund member had retired. If the disabled fund member does not have at least twenty (20) years of service or is not at least fifty-two (52) years of age, the benefit is computed and paid as if the fund member had twenty (20) years of service and was fifty-two (52) years of age.

(e) Notwithstanding section 12.3 of this chapter and any other provision of this section, a member who:

- (1) has had a covered impairment;**
- (2) recovers and returns to active service with the department; and**
- (3) within two (2) years after returning to active service has an impairment that except for section 12.3 of this chapter would be a covered impairment;**

is entitled to the benefit under this subsection if the impairment described in subdivision (3) results from the same condition or conditions (without an intervening circumstance) that caused the covered impairment described in subdivision (1). The member is entitled to receive the monthly disability benefit amount paid to the member at the time of the member's return to active service plus any adjustments under section 15 of this chapter that would have been applicable during the member's period of reemployment.

SECTION 26. IC 36-8-8-13.8 IS ADDED TO THE INDIANA

CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 13.8. (a) This section applies to an active or retired member who dies other than in the line of duty (as defined in section 14.1 of this chapter) after August 31, 1982.**

(b) If a fund member dies while receiving retirement or disability benefits, the following apply:

(1) Except as otherwise provided in this subsection, each of the member's surviving children is entitled to a monthly benefit equal to twenty percent (20%) of the fund member's monthly benefit:

- (A) until the child becomes eighteen (18) years of age; or**
- (B) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university;**

whichever period is longer. However, if the board finds upon the submission of satisfactory proof that a child who is at least eighteen (18) years of age is mentally or physically incapacitated, is not a ward of the state, and is not receiving a benefit under clause (B), the child is entitled to receive an amount each month that is equal to the greater of thirty percent (30%) of the monthly pay of a first class patrolman or first class firefighter or fifty-five percent (55%) of the monthly benefit the deceased member was receiving or was entitled to receive on the date of the member's death as long as the mental or physical incapacity of the child continues. Benefits paid for a child shall be paid to the surviving parent as long as the child resides with and is supported by the surviving parent. If the surviving parent dies, the benefits shall be paid to the legal guardian of the child.

(2) The member's surviving spouse is entitled to a monthly benefit equal to sixty percent (60%) of the fund member's monthly benefit during the spouse's lifetime. If the spouse remarried before September 1, 1983, and benefits ceased on the date of remarriage, the benefits for the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse.

If a fund member dies while receiving retirement or disability benefits, there is no surviving eligible child or spouse, and there is

proof satisfactory to the local board, subject to review in the manner specified in section 13.1(b) of this chapter, that the parent was wholly dependent on the fund member, the member's surviving parent is entitled, or both surviving parents if qualified are entitled jointly, to receive fifty percent (50%) of the fund member's monthly benefit during the parent's or parents' lifetime.

(c) Except as otherwise provided in this subsection, if a fund member dies while on active duty or while retired and not receiving benefits, the member's children and the member's spouse, or the member's parent or parents are entitled to receive a monthly benefit determined under subsection (b). If the fund member did not have at least twenty (20) years of service or was not at least fifty-two (52) years of age, the benefit is computed as if the member:

- (1) did have twenty (20) years of service; and
- (2) was fifty-two (52) years of age.

SECTION 27. IC 36-8-8-13.9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 13.9. (a) This section applies to an active member who died in the line of duty (as defined in section 14.1 of this chapter) before September 1, 1982.**

(b) Except as otherwise provided in this subsection, if a fund member dies in the line of duty, the following apply:

- (1) Each of the member's surviving children is entitled to a monthly benefit equal to twenty percent (20%) of the fund member's monthly benefit:

- (A) until the child becomes eighteen (18) years of age; or
- (B) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university;

whichever period is longer. However, if the board finds upon the submission of satisfactory proof that a child who is at least eighteen (18) years of age is mentally or physically incapacitated, is not a ward of the state, and is not receiving a benefit under clause (B), the child is entitled to receive an amount each month that is equal to the greater of thirty percent (30%) of the monthly pay of a first class patrolman or first class firefighter or fifty-five percent (55%) of the

monthly benefit the deceased member was receiving or was entitled to receive on the date of the member's death as long as the mental or physical incapacity of the child continues. Benefits paid for a child shall be paid to the surviving parent as long as the child resides with and is supported by the surviving parent. If the surviving parent dies, the benefits shall be paid to the legal guardian of the child.

(2) The member's surviving spouse is entitled to a monthly benefit equal to sixty percent (60%) of the fund member's monthly benefit during the spouse's lifetime. If the spouse remarried before September 1, 1983, and benefits ceased on the date of remarriage, the benefits for the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse.

If there is no surviving eligible child or spouse, and there is proof satisfactory to the local board, subject to review in the manner specified in section 13.1(b) of this chapter, that the parent was wholly dependent on the fund member, the member's surviving parent is entitled, or both surviving parents if qualified are entitled jointly, to receive fifty percent (50%) of the fund member's monthly benefit during the parent's or parents' lifetime.

(c) If the fund member did not have at least twenty (20) years of service or was not at least fifty-two (52) years of age, the benefit under subsection (b) is computed as if the member:

- (1) did have twenty (20) years of service; and
- (2) was fifty-two (52) years of age.

SECTION 28. IC 36-8-8-14.1, AS AMENDED BY P.L.195-1999, SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 14.1. (a) Benefits paid under this section are subject to section 2.5 of this chapter.

(b) This section applies to an active member who dies in the line of duty after August 31, 1982.

(c) If a fund member dies in the line of duty after August 31, 1982, the member's surviving spouse is entitled to a monthly benefit during the spouse's lifetime, equal to the benefit to which the member would have been entitled on the date of the member's death, but not less than the benefit payable to a member with twenty (20) years service at fifty-two (52) years of age. If the spouse remarried before September 1, 1983, and benefits ceased on the

date of remarriage, the benefits for the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse.

(d) If a fund member dies ~~while receiving retirement or disability benefits, in the line of duty,~~ the following apply:

~~(1)~~ each of the member's surviving children is entitled to a monthly benefit equal to twenty percent (20%) of the fund member's monthly benefit:

- ~~(A)~~ **(1)** until the child reaches eighteen (18) years of age; or
- ~~(B)~~ **(2)** until the child reaches twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university;

whichever period is longer. However, if the board finds upon the submission of satisfactory proof that a child who is at least eighteen (18) years of age is mentally or physically incapacitated, is not a ward of the state, and is not receiving a benefit under ~~subdivision (1)(B);~~ **subdivision (2)**, the child is entitled to receive an amount each month that is equal to the greater of thirty percent (30%) of the monthly pay of a first class patrolman or first class firefighter or fifty-five percent (55%) of the monthly benefit the deceased member was receiving or was entitled to receive on the date of the member's death as long as the mental or physical incapacity of the child continues. Benefits paid for a child shall be paid to the surviving parent as long as the child resides with and is supported by the surviving parent. If the surviving parent dies, the benefits shall be paid to the legal guardian of the child.

~~(2) The member's surviving spouse is entitled to a monthly benefit equal to sixty percent (60%) of the fund member's monthly benefit during the spouse's lifetime. If the spouse remarried before September 1, 1983, and benefits ceased on the date of remarriage, the benefits for the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse.~~

(e) If a fund member dies ~~while receiving retirement or disability benefits,~~ there is no surviving eligible child or spouse, and there is proof satisfactory to the local board, subject to review in the manner specified in section 13.1(b) of this chapter, that the parent was wholly dependent on the fund member, the member's surviving parent is

entitled, or both surviving parents if qualified are entitled jointly, to receive fifty percent (50%) of the fund member's monthly benefit during the parent's or parents' lifetime.

~~(c) If a fund member dies while on active duty or while retired and not receiving benefits, the member's children and the member's spouse, or the member's parent or parents, are entitled to receive a monthly benefit determined under subsection (b):~~

~~(f) If the fund member did not have at least twenty (20) years of service or was not at least fifty-two (52) years old, the benefit is computed as if the member:~~

- ~~(1) did have twenty (20) years of service; and~~
- ~~(2) was fifty-two (52) years of age.~~

~~(d) If a fund member dies in the line of duty after August 31, 1982, the member's surviving spouse is entitled to an additional monthly benefit during the spouse's lifetime, equal to the difference between the benefit payable under subsection (b)(2) and the benefit to which the member would have been entitled on the date of the member's death, but not less than the benefit payable to a member with twenty (20) years service at fifty-two (52) years of age. If the spouse remarried before September 1, 1983, and benefits ceased on the date of remarriage, the benefits for the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse.~~

~~(g) For purposes of this subsection, section, "dies in the line of duty" means death that occurs as a direct result of personal injury or illness resulting from:~~

- ~~(1) any action that the member, in the member's capacity as a police officer:
 - ~~(A) is obligated or authorized by rule, regulation, condition of employment or service, or law to perform; or~~
 - ~~(B) performs in the course of controlling or reducing crime or enforcing the criminal law; or~~~~
- ~~(2) any action that the member, in the member's capacity as a firefighter:
 - ~~(A) is obligated or authorized by rule, regulation, condition of employment or service, or law to perform; or~~
 - ~~(B) performs while on the scene of an emergency run (including false alarms) or on the way to or from the scene.~~~~

SECTION 29. [EFFECTIVE JULY 1, 2000] **(a) The 1977 fund**

advisory committee established by IC 36-8-8-4 shall before November 1, 2000, determine which surviving spouses, children, or parents receiving benefits under IC 36-8-6, IC 36-8-7, or IC 36-8-7.5 are survivors of police officers or firefighters who died in the line of duty before September 1, 1982.

(b) This SECTION expires January 1, 2002.

SECTION 30. An emergency is declared for this act.

P.L.119-2000

[S.64. Approved March 17, 2000.]

AN ACT to amend the Indiana Code concerning pensions.

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

SECTION 1. IC 4-15-2-3.8, AS AMENDED BY P.L.272-1999, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 3.8. "State service" means public service by:

- (1) employees and officers, including the incumbent directors, of the county offices of family and children; and
- (2) employees and officers, except members of boards and commissions or individuals hired for or appointed to, after June 30, 1982, positions as appointing authorities, deputies, assistants reporting to appointing authorities, or supervisors of major units within state agencies, irrespective of the title carried by those positions, of the division of disability, aging, and rehabilitative services, Fort Wayne State Developmental Center, Muscatatuck State Developmental Center, division of mental health, Larue D. Carter Memorial Hospital, Evansville State Psychiatric Treatment Center for Children, Central State Hospital, Evansville State Hospital, Logansport State Hospital, Madison State Hospital, Richmond State Hospital, state department of health, Indiana School for the Blind, Indiana School for the Deaf, Indiana Veterans' Home, Indiana Soldiers' and Sailors' Children's Home, Silvercrest Children's Development Center, department of

correction, Westville Correctional Facility, Plainfield Juvenile Correctional Facility, Putnamville Correctional Facility, Indianapolis Juvenile Correctional Facility, Indiana State Prison, Indiana Women's Prison, Pendleton Correctional Facility, Reception and Diagnostic Center, Rockville Correctional Facility, Youth Rehabilitation Facility, Plainfield Correctional Facility, department of fire and building services, state emergency management agency (excluding a county emergency management organization and any other local emergency management organization created under IC 10-4-1), civil rights commission, criminal justice planning agency, department of workforce development, Indiana historical bureau, Indiana state library, division of family and children, Indiana state board of animal health, Federal Surplus Property Warehouse, Indiana education employment relations board, ~~public employees' retirement fund; teachers' retirement fund;~~ department of labor, Indiana protection and advocacy services commission, commission on public records, Indiana horse racing commission, and state personnel department.

SECTION 2. IC 5-10.2-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1. Scope; Purpose. (a) This article applies to the Indiana state teachers' retirement fund and the public employees' retirement fund. Each retirement fund covered by this article is a separate retirement fund managed by its board under its retirement fund law. Each board shall make and publish regulations which are appropriate to the efficient administration of this article. The obligations of the state and political subdivisions for benefit payments are specified in each retirement fund law.

(b) Each fund is an independent body corporate and politic. A fund is not a department or agency of the state but is an independent instrumentality exercising essential government functions.

(c) For purposes of IC 34-13-2, IC 34-13-3, and IC 34-13-4, each board, each fund, and all employees of each board or fund are public employees (as defined in IC 34-6-2-38). All employees of each board or fund employed within a classification covered by a labor agreement to which the state is a party shall continue to remain subject to the terms and conditions of that agreement and

any successor labor agreements entered into by the state.

(d) The benefits specified in this article and the benefits from the Social Security Act provide the retirement, disability, and survivor benefits for public employees and teachers. However, this article does not prohibit a political subdivision from establishing and providing before January 1, 1995, and continuing to provide after January 1, 1995, retirement, disability, and survivor benefits for the public employees of the political subdivision independent of this article if the political subdivision took action before January 1, 1995, and was not a participant in the public employees' retirement fund on January 1, 1995, under this article or IC 5-10.3.

SECTION 3. IC 5-10.2-2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 12. (a) The general assembly shall appropriate biennially for each fund **covered by this article that satisfies the conditions of section 1.5 of this chapter** the sum of the following:

- (1) the state's normal contribution for its employees to the public employees' retirement fund, the pre-1996 account, and the 1996 account, as determined in section 11 of this chapter;
- (2) at least the anticipated increase in the state's unfunded accrued liability in each fund, other than the pre-1996 account, as estimated by each board under the procedures specified in section 11 of this chapter; and
- (3) the state's obligation as estimated by each board for disability benefits and benefits payable under retirement fund laws in effect before April 1, 1955.

The request for this sum for each fund shall be submitted to the budget agency as one (1) item for each fund. Each board shall submit to the agency its actuarial investigation and valuation and any other actuarial information to support the request.

(b) The general assembly shall appropriate biennially an amount necessary for the administration of each fund. The request for this amount shall be submitted as operating expenses of other state departments are submitted. The amount shall be included in the biennial budget bill and paid as are operating expenses of other state departments. If the board and the actuary determine that investment earnings are sufficient, then the total amount of administrative costs shall be offset by the earnings. The offset shall be prorated for:

- ~~(1) participating political subdivisions; and~~
- ~~(2) school corporations and other institutions; with respect to the 1996 account.~~

~~(c) (b) The biennial appropriation specified in subsection (a) of this section shall be paid annually to each fund covered by this article that satisfies the conditions of section 1.5 of this chapter in equal installments in July of each year of the biennium. The biennial appropriation specified in subsection (b) of this section shall be available to each fund beginning with July of each year of the biennium.~~

(c) The biennial appropriation under this section shall be deposited in the trust of each fund and used only as provided in section 1.5 of this chapter.

SECTION 4. IC 5-10.3-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 7. The board shall **do all of the following:**

- (1) Appoint a director, subject to the approval of the governor.
- (2) Appoint an actuary and ~~such clerical and other help as is required~~ **employ or contract with employees, auditors, technical experts, legal counsel, and other service providers as it considers necessary** to transact the business of the fund, **without the approval of any state officer.**
- (3) Fix the compensation of persons:
 - ~~(A) appointed subject to the approval of the budget agency; or~~ **employed by the board; or**
 - (B) who contract with the board.**
- (4) Establish a general office in Indianapolis for board meetings and for administrative personnel.
- (5) Provide for the installation in the general office of a complete system of books, accounts including reserve accounts, and records in order to give effect to all the requirements of this article and to assure the proper operation of the fund.
- (6) Provide for a report at least annually, before June 1, to each member of the amount credited to him in the annuity savings account in each investment program under IC 5-10.2-2.
- (7) With the advice of the actuary, adopt actuarial tables and compile data needed for actuarial studies which are necessary for the fund's operation.

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

(9) Have the accounts of the fund audited annually by the state board of accounts. ~~and~~

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

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

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

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

(14) Submit a report of its activities each year to the governor, the pension management oversight commission, and the budget committee before November 1 of each year. The report under this subdivision must set forth a complete operating and financial statement covering its operations during the most recent fiscal year, including information on the following:

(A) Investment performance.

(B) Investment and administrative costs as a percentage of assets under management.

(C) Investment asset allocation strategy.

(D) Member services.

(E) Member communications.

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

SECTION 5. IC 5-10.3-3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 8. (a) The board may **do any of the following:**

(1) Establish **and amend** rules and regulations:

(A) for the administration and regulation of the fund and the board's affairs; and

(B) to effectuate the powers and purposes of the board; without adopting a rule under IC 4-22-2.

(2) Make contracts and sue and be sued as the board of trustees of the public employees' retirement fund of Indiana.

- (3) Delegate duties to its employees.
- (4) Enter into agreements with one (1) or more insurance companies to provide life, hospitalization, surgical, medical, or supplemental Medicare insurance, utilizing individual or group insurance policies for retired members of the fund, and, upon authorization of the respective member, deduct premium payments for such policies from the members' retirement benefits and remit the payments to the insurance companies.
- (5) Enter into agreements with one (1) or more insurance companies to provide annuities for retired members of the fund, and, upon a member's authorization, transfer the amount credited to the member in the annuity savings account to the insurance companies.
- (6) Whenever the fund's membership is sufficiently large for actuarial valuation, establish an employer's contribution rate for all employers, including employers with special benefit provisions for certain employees.
- (7) Amortize prior service liability over a period of forty (40) years or less. ~~and~~
- (8) Recover payments made under false or fraudulent representation.
- (9) Exercise all powers necessary, convenient, or appropriate to carry out and effectuate its public and corporate purposes and to conduct its business.**

(b) An agreement under subsection (a)(4) may be for a duration of three (3) years.

(c) A contract under subsection (a)(2) may be for a term of not more than five (5) years, with an ability to renew thereafter.

(d) The board's powers and the fund's powers specified in this chapter shall be interpreted broadly to effectuate the purposes of this chapter and may not be construed as a limitation of powers.

SECTION 6. IC 21-6.1-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 6. (a) Each trustee shall give bond as specified periodically by the state board of finance.

(b) The board shall **do all of the following:**

- (1) Act on each application for benefits.
- (2) Provide the necessary forms for administering the fund.
- (3) Establish records and accounts, which provide the necessary

information for an actuary's examination and which are sanctioned by the state board of accounts.

(4) Maintain individual records for each member of the fund containing:

- (A) ~~his~~ **the member's** name;
- (B) date of birth;
- (C) age at beginning service;
- (D) service record;
- (E) address;
- (F) ~~his~~ **the member's** contributions to the fund;
- (G) amounts withdrawn;
- (H) benefits paid; and
- (I) other items considered necessary.

(5) Employ ~~assistants or contract with employees, auditors, technical experts, legal counsel, and other service providers as it considers necessary to transact the business of the fund without the approval of any state officer,~~ and fix their compensation. ~~subject to the approval of the budget agency.~~

(6) Make rules as are required to administer the fund.

(7) Publish for the members' information a synopsis of the fund's condition.

(8) Provide for a report at least annually, before June 1, to each member of the value of the amount credited to the member in the annuity savings account in each investment program under IC 5-10.2-2. ~~and~~

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

(10) Appoint an actuary.

(11) With the advice of the actuary, adopt actuarial tables and compile data needed for actuarial studies that are necessary for the fund's operation.

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

(13) Expend money, including income from the fund's

investments, for effectuating the fund's purposes.

(14) Establish personnel programs and policies for its employees.

(15) Submit a report of its activities each year to the governor, the pension management oversight commission, and the budget committee before November 1 of each year. The report under this subdivision must set forth a complete operating and financial statement covering its operations during the most recent fiscal year, including information on the following:

(A) Investment performance.

(B) Investment and administrative costs as a percentage of assets under management.

(C) Investment asset allocation strategy.

(D) Member services.

(E) Member communications.

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

SECTION 7. IC 21-6.1-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 7. (a) The board may **do any of the following:**

~~(1)~~ **(1) Adopt and enforce bylaws rules and regulations regarding the department's fund's administration and the control and investment of the fund.**

~~(2)~~ **(2) employ staff, who are not trustees, to perform clerical work needed by the board;**

~~(3)~~ **(2) Bond employees for the fund's protection.**

~~(4)~~ **(3) Receive from the federal government the state's share of the cost of the pension contribution for a member on leave of absence to work in a federally supported educational project.**

~~(5)~~ **(4) Sue and be sued as the board of trustees of the Indiana state teachers' retirement fund.**

~~(6)~~ **(5) Summon and examine witnesses when adjusting claims.**

~~(7)~~ **(6) Require, when adjusting disability claims, medical examinations by doctors approved or appointed by the board; however, not more than two (2) examinations may be conducted in one (1) year.**

~~(8)~~ **(7) Conduct investigations to help determine the merit of a**

claim.

~~(9)~~ **(8)** Meet any emergency which may arise in the administration of its trust.

~~(10)~~ **(9)** Determine other matters regarding its trust which are not specified.

~~(11)~~ **(10)** Enter into agreements with one (1) or more insurance companies to provide life, hospitalization, surgical, medical, or supplemental Medicare insurance, utilizing individual or group insurance policies for retired teachers, and, upon authorization of the respective retired teacher, deduct premium payments for such policies from the teachers' retirement benefits and remit the payments to the insurance companies. ~~and~~

~~(12)~~ **(11)** Enter into agreements with one (1) or more insurance companies to provide annuities for retired teachers and upon a member's authorization transfer the amount credited to the member in the annuity savings account to the insurance companies.

(12) Exercise all powers necessary, convenient, or appropriate to carry out and effectuate its public and corporate purposes and to conduct its business.

(13) Establish and amend rules and regulations:

(A) for the administration and regulation of the fund and the board's affairs; and

(B) to effectuate the powers and purposes of the board; without adopting a rule under IC 4-22-2.

(b) An agreement under subsection ~~(a)(11)~~ **(a)(10)** may be for a duration of three (3) years.

(c) This subsection does not apply to an agreement under subsection ~~(a)(11)~~: **(a)(10)**. A contract that the board enters into under section 9(b) of this chapter or any other provision may be for a term of not more than five (5) years, with an ability to renew thereafter.

(d) The board's powers and the fund's powers specified in this chapter shall be interpreted broadly to effectuate the purposes of this chapter and may not be construed as a limitation of powers.

SECTION 8. IC 36-8-8-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 4. (a) There is established a police officers' and firefighters' pension and disability fund to be known as the 1977 fund. The 1977 fund consists of fund member and employer

contributions, plus the earnings on them, to be used to make benefit payments to fund members and their survivors in the amounts and under the conditions specified in this chapter.

(b) The board of trustees of the public employees' retirement fund (referred to in this chapter as the "PERF board") shall administer the 1977 fund, which may be commingled with the public employees' retirement fund for investment purposes. All actuarial data shall be computed on the total membership of the fund, and the cost of participation is the same for all employers in the fund. The fund member and employer contributions shall be recorded separately for each employer.

(c) The 1977 fund advisory committee, referred to as the committee, is established. The PERF board shall consult with the committee on matters pertaining to the administration of this chapter and IC 5-10.3-11. The committee shall consist of the following members appointed by the governor every two (2) years for a term of two (2) years:

- (1) Two (2) firefighters:
 - (A) each of whom must be **a an active or retired** member of the 1937 fund or the 1977 fund; and
 - (B) neither of whom may be in an upper level policymaking position.
- (2) Two (2) police officers:
 - (A) each of whom must be **a an active or retired** member of the 1925 fund, the 1953 fund, or the 1977 fund; and
 - (B) neither of whom may be in an upper level policymaking position.
- (3) Two (2) members, each of whom must be an executive of an employer.
- (4) Two (2) members, each of whom must be a member of the legislative body of an employer.

The term of each member begins on July 1 following appointment and continues until his successor is qualified. A member of the committee who no longer holds the position that qualified him for appointment under subdivision (1), (2), (3), or (4) forfeits his membership on the committee. The governor shall appoint a person to fill a vacancy on the committee for the remainder of the unexpired term.

(d) Each member of the committee who is not a state employee is

entitled to ~~the minimum salary per diem provided by IC 4-10-11-2.1(b).~~ **reimbursement for expenses actually incurred in connection with the member's duties.** Such a member is also entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as ~~provided in the state travel policies and procedures established by the department of administration and approved by the state budget agency.~~ **PERF board.**

P.L.120-2000

[S.73. Approved March 17, 2000.]

AN ACT to amend the Indiana Code concerning criminal law and procedure.

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

SECTION 1. IC 9-30-5-5, AS AMENDED BY P.L.1-2000, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 5. (a) A person who causes the death of another person when operating a motor vehicle:

- (1) with an alcohol concentration equivalent to at least ten-hundredths (0.10) gram of alcohol per:
 - (A) one hundred (100) milliliters of the person's blood; or
 - (B) two hundred ten (210) liters of the person's breath;
- (2) with a controlled substance listed in schedule I or II of IC 35-48-2 or its metabolite in the person's ~~blood;~~ **body;** or
- (3) while intoxicated;

commits a Class C felony. However, the offense is a Class B felony if, within the five (5) years preceding the commission of the offense, the person had a prior unrelated conviction under this chapter.

(b) A person who violates subsection (a) commits a separate offense for each person whose death is caused by the violation of subsection (a).

(c) It is a defense under subsection (a)(2) that the accused person consumed the controlled substance under a valid prescription or order

of a practitioner (as defined in IC 35-48-1) who acted in the course of the practitioner's professional practice.

SECTION 2. IC 9-30-10-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 16. (a) A person who operates a motor vehicle:

(1) while the person's driving privileges are **validly** suspended under this chapter or IC 9-12-2 (repealed July 1, 1991) **and the person knows that the person's driving privileges are suspended;** or

(2) in violation of restrictions imposed under this chapter or IC 9-12-2 (repealed July 1, 1991) **and who knows of the existence of the restrictions;**

commits a Class D felony.

(b) **Service by the bureau of notice of the suspension or restriction of a person's driving privileges under subsection (a)(1) or (a)(2):**

(1) in compliance with IC 9-30-10-5; and

(2) by first class mail to the person at the last address shown for the person in the bureau's records;

establishes a rebuttable presumption that the person knows that the person's driving privileges are suspended or restricted.

(c) In addition to any criminal penalty, a person who is convicted of a felony under subsection (a) forfeits the privilege of operating a motor vehicle for life. However, if judgment for conviction of a Class A misdemeanor is entered for an offense under subsection (a), the court may order a period of suspension of the convicted person's driving privileges that is in addition to any suspension of driving privileges already imposed upon the person.

P.L.121-2000

[S.74. Approved March 17, 2000.]

AN ACT to amend the Indiana Code concerning criminal law and procedure.

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

SECTION 1. IC 35-45-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1. (a) A person who knowingly or intentionally, in a public place:

- (1) engages in sexual intercourse;
 - (2) engages in deviate sexual conduct;
 - (3) appears in a state of nudity; or
 - (4) fondles the person's genitals or the genitals of another person;
- commits public indecency, a Class A misdemeanor.

(b) However, the offense **under subsection (a)** is a Class D felony if the person commits the offense:

- (1)** by appearing in the state of nudity with the intent to arouse the sexual desires of the person or another person in or on a public place where a child less than sixteen (16) years of age is present;
- (2) in a public park and has a prior unrelated conviction that was entered after June 30, 2000, for an offense under this section;**
- (3) in or on school property and has a prior unrelated conviction that was entered after June 30, 2000, for an offense under this section; or**
- (4) in department of natural resources owned or managed property and has a prior unrelated conviction that was entered after June 30, 2000, for an offense under this section.**

~~(b)~~ **(c)** "Nudity" means the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of covered male genitals in a discernibly turgid state.

~~(c)~~ **(d)** A person who, in a place other than a public place, with the

intent to be seen by persons other than invitees and occupants of that place:

- (1) engages in sexual intercourse;
 - (2) engages in deviate sexual conduct; or
 - (3) fondles the person's genitals or the genitals of another person;
- where the person can be seen by persons other than invitees and occupants of that place commits indecent exposure, a Class C misdemeanor.

P.L.122-2000

[S.114. Approved March 17, 2000.]

AN ACT to amend the Indiana Code concerning elections.

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

SECTION 1. IC 3-5-4-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 7. Except as otherwise provided in this title, a reference to a federal statute or regulation in this title is a reference to the statute or regulation as in effect January 1, ~~1996~~ 2000.

SECTION 2. IC 3-6-4.1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 6. (a) The governor shall appoint one (1) of the members of the commission to be the chair and one (1) of the members of the commission to be the vice chair of the commission. ~~After June 30, 1997,~~ The chair of the commission must be a member of the same political party as the individual who is the secretary of state. The vice chair and the chair may not be affiliated with the same political party.

(b) The individuals appointed as chair and vice chair serve in their respective positions until each individual's term as a member of the commission expires.

SECTION 3. IC 3-7-33-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 5. ~~(a) This section applies only to an application received by a circuit court clerk or board of registration after May 16, 1995.~~

~~(b)~~ **(a)** When the circuit court clerk or board of registration receives an application for a new registration or an application with information that revises or adds information to the applicant's current voter registration record, the clerk or board shall determine if the applicant appears to be eligible to register to vote based on the information in the application.

~~(c)~~ **(b)** As required under 42 U.S.C. 1973gg-6(a)(2), the circuit court clerk or board of registration shall send a notice to each person from whom the clerk or board receives a voter registration application. The clerk or board shall send a notice to the applicant at the mailing address provided in the application.

~~(d)~~ **(c)** The notice required by subsection ~~(c)~~ **(b)** must set forth the following:

- (1) A statement that the application has been received.
- (2) The disposition of the application by the clerk or board.
- (3) If the clerk or board determines that the applicant appears to be eligible, the notice must state the following:
 - (A) The applicant is registered to vote under the residence address when the applicant receives the notice. An applicant is presumed to have received the notice unless the notice is returned by the United States Postal Service due to an unknown or insufficient address.
 - (B) The name of the precinct in which the voter is registered.
 - (C) The address of the polling place for the precinct in which the voter is registered.
- (4) If the clerk or board has denied the application, the notice must include the reasons for the denial.

~~(e)~~ **(d)** The notice required by subsection ~~(c)~~ **(b)** may include a voter registration card.

~~(f)~~ **(e)** If the notice is returned by the United States Postal Service due to an unknown or insufficient address, the clerk or board shall determine that the applicant is ineligible and deny the application.

SECTION 4. IC 3-7-33-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 6. As provided by 42 U.S.C. 1973gg-4(d), if:

- (1) the county voter registration office mails a notice of the disposition of a voter registration application under section ~~5~~ **5(b)** of this chapter by nonforwardable mail; and

(2) the notice is returned as undeliverable, after the applicant is added to the registration rolls under section 5 of this chapter; the county voter registration office may initiate steps to remove the voter from the registration rolls as provided in 42 U.S.C. 1973gg-6(d) and this article.

SECTION 5. IC 3-8-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) This section applies to each political party that elects delegates to the party's state convention at a primary election.

(b) Delegates to a state convention shall be chosen at the primary election conducted by the political party on the first Tuesday after the first Monday in May ~~1998~~, **2000** and every two (2) years thereafter. If provided in the rules of the state committee of the political party, delegates may be elected from delegate districts in each county.

(c) Not later than noon November 30 of the year preceding the year in which the state convention is to be conducted, the state chairman of a political party shall certify the following to the election division and to each county committee of the party:

- (1) The number of delegates to be elected in each county.
- (2) Whether the delegates are to be elected from districts or at large in each county.
- (3) If a county is to elect delegates from districts, how many districts must be established in each county.

(d) The county committee shall establish any delegate districts required to be established under subsection (c) and file descriptions setting forth the district boundaries with the county election board not later than noon December 31 of the year preceding the year the state convention is to be conducted. If the county committee does not timely file district descriptions under this subsection, the county election board shall establish districts not later than the first day that a declaration of candidacy may be filed under IC 3-8-2-4, and apportion the delegates to be elected from each district in accordance with subsection (c).

SECTION 6. IC 3-10-1-4.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 4.5. (a) Precinct committeemen shall be elected on the first Tuesday after the first Monday in May ~~1998~~ **2002** and every four (4) years thereafter.

(b) The rules of a political party may specify whether a precinct

committeeman elected under subsection (a) continues to serve as a precinct committeeman after the boundaries of the precinct are changed by a precinct establishment order issued under IC 3-11-1.5.

SECTION 7. IC 3-10-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 4. United States Senators shall be elected at a general election held in accordance with 2 U.S.C. 1 and as follows:

- (1) One (1) in ~~1998~~ **2000** and every six (6) years thereafter.
- (2) One (1) in ~~2000~~ **2004** and every six (6) years thereafter.

SECTION 8. IC 3-10-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 7. The following public officials shall be elected in ~~1998~~ **2002** and every four (4) years thereafter:

- (1) Secretary of state.
- (2) Auditor of state.
- (3) Treasurer of state.
- (4) Clerk of the supreme court.

SECTION 9. IC 3-10-2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 12. A prosecuting attorney shall be elected in each judicial circuit in ~~1998~~ **2002** and every four (4) years thereafter in accordance with Article 7, Section 16 of the Constitution of the State of Indiana.

SECTION 10. IC 3-10-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 2. (a) Except as otherwise provided in this chapter, a municipal primary election shall be held on the first Tuesday after the first Monday in May ~~1999~~ **2003** and every four (4) years thereafter.

(b) Each political party whose nominee received at least ten percent (10%) of the votes cast in the state for secretary of state at the last election shall nominate all candidates to be voted for at the municipal election to be held in November.

SECTION 11. IC 3-10-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 3. (a) Notwithstanding section 2 of this chapter, in a town that adopted an ordinance under IC 18-3-1-16(b) (before its repeal on September 1, 1981), P.L.13-1982, SECTION 3 (before its expiration on January 1, 1988), or section 2.5 of this chapter each political party shall, at the primary election in:

- (1) May ~~1990~~ **2002** and every four (4) years thereafter; and
- (2) May ~~1991~~ **2003** and every four (4) years thereafter;

nominate candidates for the election to be held under section 6(a) of this chapter, unless a primary election is not required under section 4 of this chapter. The primary election shall be conducted under this chapter.

(b) Notwithstanding section 2 of this chapter, in a town that adopted an ordinance under section 2.6 of this chapter each political party shall, at the primary election in:

(1) May ~~1990~~ **2002** and every four (4) years thereafter; and

(2) May ~~1992~~ **2004** and every four (4) years thereafter;

nominate candidates for the election to be held under section 6(b) of this chapter, unless a primary election is not required under section 4 of this chapter. The primary election shall be conducted under this chapter.

(c) Notwithstanding section 2 of this chapter, in a town that adopted an ordinance under section 2.6 of this chapter each political party shall, at the primary election in May ~~1992~~ **2004** and every four (4) years thereafter, nominate candidates for the election to be held under section 6(c) of this chapter, unless a primary election is not required under section 4 of this chapter. The primary election shall be held under this chapter.

SECTION 12. IC 3-10-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 5. Except as otherwise provided in this chapter, a municipal election shall be held on the first Tuesday after the first Monday in November ~~1999~~ **2003** and every four (4) years thereafter. At the election public officials shall be elected to each municipal and school board office.

SECTION 13. IC 3-10-6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 6. (a) Notwithstanding section 5 of this chapter, a town that adopted an ordinance under IC 18-3-1-16(b) (before its repeal on September 1, 1981), P.L.13-1982, SECTION 3 (before its expiration on January 1, 1988), or section 2.5 of this chapter shall:

(1) at the general election in November ~~1990~~ **2002** and every four (4) years thereafter; and

(2) at the municipal election in November ~~1991~~ **2003** and every four (4) years thereafter;

elect town council members for terms of four (4) years to those offices whose terms expire at noon January 1 following the election, as

provided in IC 36-5-2-3. The election shall be conducted under this chapter.

(b) Notwithstanding section 5 of this chapter, a town that adopted an ordinance under section 2.6 of this chapter shall:

- (1) at the general election in November ~~1996~~ **2002** and every four (4) years thereafter; and
- (2) at the general election in November ~~1992~~ **2004** and every four (4) years thereafter;

elect town council members for terms of four (4) years to those offices whose terms expire at noon January 1 of the following year. The election shall be conducted under this chapter.

(c) Notwithstanding section 5 of this chapter, a town that adopted an ordinance under section 2.6 of this chapter shall, at the general election in November ~~1992~~ **2004** and every four (4) years thereafter, elect a town clerk-treasurer and town court judge (if a town court has been established under IC 33-10.1-1-3) to those offices whose terms expire at noon January 1 of the following year. The election shall be conducted under this chapter.

SECTION 14. IC 9-13-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 4. Except as otherwise provided in this title, a reference in this title to a federal statute or regulation relating to the National Voter Registration Act of 1993 (42 U.S.C. 1973gg) is a reference to the statute or regulation as in effect January 1, ~~1996~~ **2000**.

SECTION 15. IC 12-7-1-3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 3. Except as otherwise provided in this title, a reference in this title to a federal statute or regulation relating to the federal National Voter Registration Act of 1993 (42 U.S.C. 1973gg) is a reference to the statute or regulation as in effect January 1, 2000.**

SECTION 16. IC 16-18-1-3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 3. Except as otherwise provided in this title, a reference in this title to a federal statute or regulation relating to the federal National Voter Registration Act of 1993 (42 U.S.C. 1973gg) is a reference to the statute or regulation as in effect January 1, 2000.**

SECTION 17. IC 20-3-21-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. The members shall be elected as follows:

- (1) Three (3) of the members elected under section 3(b)(1) of this chapter shall be elected at the primary election to be held in ~~1992~~ **2000** and every four (4) years thereafter.
- (2) Three (3) of the members elected under section 3(b)(1) of this chapter shall be elected at the primary election to be held in ~~1994~~ **2002** and every four (4) years thereafter.

SECTION 18. IC 20-3-22-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 9. The members shall be elected as follows:

- (1) Three (3) of the members shall be elected at the primary election to be held in ~~1992~~ **2000** and every four (4) years thereafter.
- (2) Two (2) of the members shall be elected at the primary election to be held in ~~1994~~ **2002** and every four (4) years thereafter.

SECTION 19. IC 20-4-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1. (a) In a community school corporation set up under IC 20-4-1 that has a population of more than seventy-five thousand (75,000) but less than ninety thousand (90,000), and that is the successor in interest to a school city having the same population, the governing body shall consist of a board of trustees of five (5) members elected in the manner provided in this chapter.

(b) At ~~the time of the 1968~~ **2000** primary election and at each ~~such~~ primary election every four (4) years thereafter, there shall be elected in each school corporation ~~embraced within the terms of~~ **covered by** this chapter two (2) school trustees each of whom shall serve for a ~~period of~~ four (4) years. The two (2) candidates for the office of school trustee receiving the highest number of votes at ~~such the~~ election ~~shall~~ take office on July 1 next following the election.

(c) At ~~the time of the 1970~~ **2002** primary election and at each ~~such~~ primary election every four (4) years thereafter, there shall be elected in each school city ~~embraced within the terms of~~ **covered by** this chapter three (3) school trustees each of whom shall serve for a ~~period of~~ four (4) years. The three (3) candidates for the office of school trustee receiving the highest number of votes at ~~such the~~ election ~~shall~~

take office on July 1 next following the election. ~~Thereafter, such~~

(d) The school trustees shall be elected at the times ~~above~~ provided and shall succeed the retiring members in the order and manner as set forth in this ~~subsection:~~ **section.**

SECTION 20. IC 36-2-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 4. (a) This subsection does not apply to a county having a population of:

- (1) more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); or
- (2) more than two hundred thousand (200,000) but less than three hundred thousand (300,000).

The executive shall divide the county into three (3) districts that are composed of contiguous territory and are reasonably compact. The district boundaries drawn by the executive must not cross precinct boundary lines and must divide townships only when a division is clearly necessary to accomplish redistricting under this section. If necessary, the county auditor shall call a special meeting of the executive to establish or revise districts.

(b) This subsection applies to a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000). A county redistricting commission shall divide the county into three (3) single-member districts that comply with subsection (d). The commission is composed of:

- (1) the members of the Indiana election commission;
- (2) two (2) members of the senate selected by the president pro tempore, one (1) from each political party; and
- (3) two (2) members of the house of representatives selected by the speaker, one (1) from each political party.

The legislative members of the commission have no vote and may act only in an advisory capacity. A majority vote of the voting members is required for the commission to take action. The commission may meet as frequently as necessary to perform its duty under this subsection. The commission's members serve without additional compensation above that provided for them as members of the Indiana election commission, the senate, or the house of representatives.

(c) This subsection applies to a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000). The executive shall divide the county into three (3)

single-member districts that comply with subsection (d).

(d) Single-member districts established under subsection (b) or (c) must:

- (1) be compact, subject only to natural boundary lines (such as railroads, major highways, rivers, creeks, parks, and major industrial complexes);
- (2) contain, as nearly as is possible, equal population; and
- (3) not cross precinct lines.

(e) A division under subsection (a), (b), or (c) shall be made:

- (1) in ~~1991~~ **2001** and every ten (10) years after that; and
- (2) when the county adopts an order declaring a county boundary to be changed under IC 36-2-1-2.

(f) A division under subsection (a), (b), or (c) may be made in any odd-numbered year not described in subsection (e).

SECTION 21. IC 36-2-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 4. (a) This subsection does not apply to a county having a population of:

- (1) more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); or
- (2) more than two hundred thousand (200,000) but less than three hundred thousand (300,000).

The county executive shall, by ordinance, divide the county into four (4) contiguous, single-member districts that comply with subsection (d). If necessary, the county auditor shall call a special meeting of the executive to establish or revise districts. One (1) member of the fiscal body shall be elected by the voters of each of the four (4) districts. Three (3) at-large members of the fiscal body shall be elected by the voters of the whole county.

(b) This subsection applies to a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000). The county redistricting commission established under IC 36-2-2-4 shall divide the county into seven (7) single-member districts that comply with subsection (d). One (1) member of the fiscal body shall be elected by the voters of each of these seven (7) single-member districts.

(c) This subsection applies to a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000). The fiscal body shall divide the county into nine

(9) single-member districts that comply with subsection (d). Three (3) of these districts must be contained within each of the three (3) districts established under IC 36-2-2-4(c). One (1) member of the fiscal body shall be elected by the voters of each of these nine (9) single-member districts.

(d) Single-member districts established under subsection (a), (b), or (c) must:

- (1) be compact, subject only to natural boundary lines (such as railroads, major highways, rivers, creeks, parks, and major industrial complexes);
- (2) not cross precinct boundary lines;
- (3) contain, as nearly as possible, equal population; and
- (4) include whole townships, except when a division is clearly necessary to accomplish redistricting under this section.

(e) A division under subsection (a), (b), or (c) shall be made:

- (1) in ~~1991~~ **2001** and every ten (10) years after that; and
- (2) when the county executive adopts an order declaring a county boundary to be changed under IC 36-2-1-2.

(f) A division under subsection (a), (b), or (c) may be made in any odd-numbered year not described in subsection (e).

SECTION 22. IC 36-6-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 2. (a) Except as provided in subsection (b), a three (3) member township board shall be elected under IC 3-10-2-13 by the voters of each township.

(b) ~~After December 31, 1996,~~ The township board in a county having a population of more than seven hundred thousand (700,000) shall consist of seven (7) members elected under IC 3-10-2-13 by the voters of each township.

(c) The township board is the township legislative body.

(d) The term of office of a township board member is four (4) years, beginning January 1 after election and continuing until a successor is elected and qualified.

SECTION 23. IC 36-6-6-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 2.5. (a) This section applies to townships in a county having a population of more than seven hundred thousand (700,000).

(b) The legislative body shall adopt a resolution that divides the township into legislative body districts that:

- (1) are composed of contiguous territory;
- (2) are reasonably compact;
- (3) respect, as nearly as reasonably practicable, precinct boundary lines; and
- (4) contain, as nearly as reasonably practicable, equal population.

(c) Before a legislative body may adopt a resolution that divides a township into legislative body districts, the secretary of the legislative body shall mail a written notice to the circuit court clerk. This notice must:

- (1) state that the legislative body is considering the adoption of a resolution to divide the township into legislative body districts; and
- (2) be mailed not later than ten (10) days before the legislative body adopts the resolution.

(d) The legislative body shall make a division into legislative body districts at the following times:

- ~~(1) In 1995.~~
- ~~(2) (1) In 2001.~~
- ~~(3) (2) Every ten (10) years after 2002.~~
- ~~(4) (3) Subject to IC 3-11-1.5-32.5, whenever the boundary of the township changes.~~

(e) The legislative body may make the division under this section at any time, subject to IC 3-11-1.5-32.5.

SECTION 24. IC 36-6-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 4. (a) Except as provided in subsection (b), two (2) members of the legislative body constitute a quorum.

(b) ~~After December 31, 1996,~~ Four (4) members of the legislative body in a county having a population of more than seven hundred thousand (700,000) constitute a quorum.

SECTION 25. **An emergency is declared for this act.**

P.L.123-2000

[S.118. Approved March 17, 2000.]

AN ACT to amend the Indiana Code concerning elections.

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

SECTION 1. IC 36-2-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) If the resident voters in a specified territory in two (2) or more contiguous counties desire to change the boundaries of their respective counties, they may file a petition with the executives of their respective counties requesting that the territory be transferred. The petition must:

- (1) be signed by at least the number of voters resident in the territory requested to be transferred required to place a candidate on the ballot under IC 3-8-6-3;
- (2) contain a clear, distinct description of the requested boundary change; and
- (3) not propose to decrease the area of any county below four hundred (400) square miles in compliance with Article 15, Section 7 of the Constitution of the State of Indiana.

(b) Whenever a petition under subsection (a) is filed with a county executive, the executive shall determine, at its first meeting after the petition is filed:

- (1) whether the signatures on the petition are genuine; and
- (2) whether the petition complies with subsection (a).

(c) If the determinations under subsection (b) are affirmative, the executive shall certify the question to the county election board of each affected county. The county election boards shall jointly order a special election to be held, scheduling the election so that the election is held on the same date in each county interested in the change, but not later than thirty (30) days and not on the same date as a general election. The election shall be conducted under IC 3-10-8-6. All voters of each interested county are entitled to vote on the question. The question shall be placed on the ballot in the form prescribed by IC 3-10-9-4 and must state "Shall the boundaries of _____ County and

_____ County change?".

(d) After an election under subsection (c), the clerk of each county shall make a certified copy of the election returns and not later than five (5) days after the election file the copy with the auditor of the county. The auditor shall, not later than five (5) days after the filing of the returns in the auditor's office, make a true and complete copy of the returns, certified under the auditor's hand and seal, and deposit the copy with the auditor of every other county interested in the change.

(e) After copies have been filed under subsection (d), the auditor of each county shall call a meeting of the executive of the county, which shall examine the returns. If a majority of the voters of each interested county voted in favor of change, the executive shall:

(1) enter an order declaring their boundaries to be changed as described in the petition; and

(2) if the county has received territory from the transfer, adopt revised descriptions of:

(A) county commissioner districts under IC 36-2-2-4; and

(B) county council districts under IC 36-2-3-4;

so that the transferred territory is assigned to at least one (1) county commissioner district and at least one (1) county council district.

(f) The executive of each county shall file a copy of the order described in subsection (e)(1) with:

(1) the **office of the secretary of state; certifying official designated under IC 3-6-4.2-11;** and

(2) the circuit court clerk of the county.

Except as provided in subsection (g), the transfer of territory becomes effective when the last county order is filed under this subsection.

(g) An order declaring county boundaries to be changed may not take effect during the year preceding a year in which a federal decennial census is conducted. An order that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January 2 of the year in which a federal decennial census is conducted.

(h) An election under this section may be held only once every three (3) years.

SECTION 2. IC 36-2-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) Whenever the boundaries of a county are changed, the surveyor shall file a revised description of

the boundaries of the county with the **office of the secretary of state certifying official designated under IC 3-6-4.2-11** ~~no~~ **not** later than thirty (30) days after the change takes effect.

(b) The **office of the secretary of state certifying official** shall maintain an accurate file of the boundary descriptions filed under this section.

SECTION 3. IC 36-3-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) This section governs the transfer of territory that is either:

- (1) inside the corporate boundaries of the consolidated city and contiguous to an excluded city; or
- (2) inside the corporate boundaries of an excluded city and contiguous to the consolidated city.

IC 36-4-3 does not apply to such a transfer.

(b) If the owners of land located in territory described in subsection (a) want to have that territory transferred from one (1) municipality to the other, they must file:

- (1) a petition for annexation of that territory with the legislative body of the contiguous municipality; and
- (2) a petition for disannexation of that territory with the legislative body of the municipality containing that territory.

Each petition must be signed by at least fifty-one percent (51%) of the owners of land in the territory sought to be transferred. The territory must be reasonably compact in configuration, and its boundaries must generally follow streets or natural boundaries.

(c) Each legislative body shall, not later than sixty (60) days after a petition is filed with it under subsection (b), either approve or disapprove the petition, with the following results:

- (1) Except as provided in subsection (g), if both legislative bodies approve, the transfer of territory takes effect:
 - (A) on the effective date of the approval of the latter legislative body to act; and
 - (B) when a copy of each transfer approval has been filed under subsection (f).
- (2) If the legislative body of the contiguous municipality disapproves or fails to act within the prescribed period, the proceedings are terminated.
- (3) If the legislative body of the contiguous municipality approves

but the legislative body of the other municipality disapproves or fails to act within the prescribed period, the proceedings are terminated unless there is an appeal under subsection (d).

(d) In the case described by subsection (c)(3), the petitioners may, not later than sixty (60) days after the disapproval or expiration of the prescribed period, appeal to the circuit court. The appeal must allege that the benefits to be derived by the petitioners from the transfer outweigh the detriments to the municipality that has failed to approve, which is defendant in the appeal.

(e) The court shall try an appeal under subsection (d) as other civil actions, but without a jury. If the court determines that:

- (1) the requirements of this section have been met; and
- (2) the benefits to be derived by the petitioners outweigh the detriments to the municipality;

it shall order the transfer of territory to take effect on the date its order becomes final, subject to subsection (g), and shall file the order under subsection (f). However, if the municipality, or a district of it, is furnishing sanitary sewer service or municipal water service in the territory, or otherwise has expended substantial sums for public facilities (other than roads) specially benefiting the territory, the court shall deny the transfer.

(f) A municipal legislative body that approves a transfer of territory under subsection (c) or a court that approves a transfer under subsection (e) shall file a copy of the approval or order, setting forth a legal description of the territory to be transferred, with:

- (1) the **office of the secretary of state; certifying official designated under IC 3-6-4.2-11;** and
- (2) the circuit court clerk of each county in which the municipality is located.

(g) A transfer of territory under this section may not take effect during the year preceding a year in which a federal decennial census is conducted. A transfer of territory that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January 2 of the year in which a federal decennial census is conducted.

(h) A petition for annexation or disannexation under this section may not be filed with respect to land as to which a transfer of territory has been disapproved or denied within the preceding three (3) years.

(i) The legislative body of a municipality annexing territory under this section shall assign the territory to at least one (1) municipal legislative body district under IC 36-3-4-3 or IC 36-4-6 ~~no~~ **not** later than thirty (30) days after the transfer of territory becomes effective under this section.

SECTION 4. IC 36-4-2-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) Except as provided in subsection (c), a merger approved under this chapter takes effect when:

- (1) the officers of the new municipality are elected and qualified, as prescribed by section 13 of this chapter; and
- (2) a copy of the agreement under section 2 of this chapter or the certified election results under section 7 of this chapter are filed with:

(A) the **office of the secretary of state; certifying official designated under IC 3-6-4.2-11**; and

(B) the circuit court clerk of each county in which the municipality is located.

(b) On the effective date of the merger, the merging municipalities cease to exist and are merged into a single municipality of the class created by the combined population of the merging municipalities. The new municipality shall be governed by the laws applicable to that class.

(c) A merger approved under this chapter may not take effect during the year preceding a year in which a federal decennial census is conducted. A merger that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January 2 of the year in which a federal decennial census is conducted.

SECTION 5. IC 36-5-1-10.1, AS AMENDED BY P.L.86-1999, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10.1. (a) Except as provided in subsection (g), if the county executive makes the findings required by section 8 of this chapter, it may adopt an ordinance incorporating the town. The ordinance must:

(1) provide that:

(A) all members of the town legislative body are to be elected at large (if the town would have a population of less than three thousand five hundred (3,500)); or

(B) divide the town into not less than three (3) nor more than

seven (7) districts; and

- (2) direct the county election board to conduct an election in the town on the date of the next general or municipal election to be held in any precincts in the county.

An election conducted under this section must comply with IC 3 concerning town elections. If, on the date that an ordinance was adopted under this section, absentee ballots for a general or municipal election have been delivered under IC 3-11-4-15 for voters within a precinct in the town, the election must be conducted on the date of the next general or municipal election held in any precincts in the county after the election for which absentee balloting is being conducted. However, a primary election may not be conducted before an election conducted under this section, regardless of the population of the town.

(b) Districts established by an ordinance adopted under this section must comply with IC 3-11-1.5.

(c) If any territory in the town is not included in one (1) of the districts established under this section, the territory is included in the district that:

- (1) is contiguous to that territory; and
- (2) contains the least population of all districts contiguous to that territory.

(d) If any territory in the town is included in more than one (1) of the districts established under this section, the territory is included in the district that:

- (1) is one (1) of the districts in which the territory is described in the ordinance adopted under this section;
- (2) is contiguous to that territory; and
- (3) contains the least population of all districts contiguous to that territory.

(e) Except as provided in subsection (f), an ordinance adopted under this section becomes effective when filed with:

- (1) the **office of the secretary of state**; ~~certifying official designated under IC 3-6-4.2-11~~; and
- (2) the circuit court clerk of each county in which the town is located.

(f) An ordinance incorporating a town under this section may not take effect during the year preceding a year in which a federal decennial census is conducted. An ordinance under this section that

would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January 2 of the year in which a federal decennial census is conducted.

(g) Proceedings to incorporate a town across county boundaries must have the approval of the county executive of each county that contains a part of the proposed town. Each county that contains a part of the proposed town must adopt identical ordinances providing for the incorporation of the town.

SECTION 6. IC 36-5-1-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. (a) An election under section 16 of this chapter shall be held in the town. The voters shall, by ballot, vote on the question submitted to them. The question shall be placed on the ballot in the form prescribed by IC 3-10-9-4 and must state "Shall the town of _____ dissolve?" or "Shall the town of _____ change its name to _____?".

(b) Within four (4) days after the canvass of the vote by the county election board, the town clerk shall prepare and attest a statement of all the votes cast at the election, to be signed by the members of the county election board and filed with:

- (1) the clerk of the county in which the greatest percentage of the population of the town is located; and
- (2) the **office of the secretary of state.** ~~certifying official designated under IC 3-6-4.2-11.~~

SECTION 7. IC 36-5-1.1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) A person aggrieved by a decision made by the county executive under section 6 of this chapter may, within thirty (30) days, appeal that decision or result to the circuit court for the county containing more than fifty percent (50%) in assessed valuation of the land in the town. The appeal is instituted by giving written notice to the clerk of the circuit court and filing with the county executive a bond for five hundred dollars (\$500), with surety approved by the county executive. The bond must provide:

- (1) that the appeal will be duly prosecuted; and
- (2) that the appellants will pay all costs if the appeal is decided against them.

(b) When an appeal is instituted, the county executive shall file with the clerk of the circuit court a transcript of all proceedings in the case,

together with all papers filed in the case. The county executive may not take further action in the case until the appeal is heard and determined.

(c) An appeal under this section shall be heard by the circuit court without a jury. Change of venue from the judge may be granted, but change of venue from the county may not be granted. If the court orders the dissolution to take place, the circuit court clerk shall, immediately after the judgment of the court, certify the judgment of the circuit court to:

- (1) the clerk of the municipality;
- (2) the circuit court clerk of any other county in which the town is located; and
- (3) the **office of the secretary of state. certifying official designated under IC 3-6-4.2-11.**

(d) Except as provided in subsection (e), the dissolution takes effect sixty (60) days after the order is certified.

(e) A dissolution under this section may not take effect during the year preceding a year in which a federal decennial census is conducted. A dissolution under this section that would otherwise take effect during the year preceding the year in which the federal decennial census is conducted takes effect January 2 of the year in which a federal decennial census is conducted.

SECTION 8. IC 36-5-1.1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) If the county executive approves dissolution under section 6 of this chapter, the county executive shall adopt:

- (1) an ordinance; or
- (2) an order in a county having a consolidated city;

dissolving the town.

(b) Except as provided in subsection (e), a dissolution takes effect:

- (1) at least sixty (60) days after the ordinance or order under subsection (a) is adopted; and
- (2) when the county auditor files a copy of the ordinance or order with:

(A) the circuit court clerk of each county in which the town is located; and

(B) the **office of the secretary of state. certifying official designated under IC 3-6-4.2-11.**

(c) The property owned by the town after payment of debts and

liabilities shall be disposed of by the county executive. Any proceeds remaining shall be deposited in the county general fund. Dissolution of a town does not affect the validity of a contract to which the town is a party.

(d) After dissolution, the books and records of the town become the property of the county executive for safekeeping.

(e) A dissolution under this section may not take effect during the year preceding a year in which a federal decennial census is conducted. A dissolution under this section that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January 2 of the year in which a federal decennial census is conducted.

SECTION 9. IC 36-5-1.1-10.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10.5. (a) This section applies to the dissolution of an included town.

(b) The town legislative body may adopt a resolution to consider dissolution of the town under this section. The resolution must state the following:

- (1) That the town legislative body conduct a public hearing at a stated date, place, and time concerning the dissolution of the town.
- (2) That the town legislative body will hear all statements presented in favor of or in opposition to dissolution.
- (3) That the town legislative body may adopt an ordinance to dissolve the town at the conclusion of the public hearing.

(c) The town clerk shall publish a notice of the public hearing in accordance with IC 5-3-1.

(d) The town legislative body may continue a public hearing under this section. If a hearing is continued, the clerk is not required to publish an additional notice under subsection (c).

(e) The town legislative body may adopt an ordinance following the conclusion of the public hearing under subsection (b). The town clerk shall file a copy of the ordinance with:

- (1) the circuit court clerk of the county; and
- (2) the **office of the secretary of state**. ~~certifying official designated under IC 3-6-4.2-11.~~

(f) Except as provided in subsection (g), the ordinance dissolving the town takes effect:

- (1) at least sixty (60) days after adoption; and
- (2) when the ordinance is filed under subsection (e).

(g) A dissolution under this section may not take effect during the year preceding a year in which a federal decennial census is conducted. A dissolution under this section that would otherwise take effect during the year preceding a year in which the federal decennial census is conducted takes effect January 2 of the year in which a federal decennial census is conducted.

(h) When an ordinance dissolving a town becomes effective:

- (1) the territory included within the town when the ordinance was adopted becomes a part of the consolidated city;
- (2) the books and records of the town become the property of the county executive;
- (3) the property owned by the town after payment of debts and liabilities shall be disposed of by the county executive; and
- (4) the county executive shall deposit any proceeds remaining after payment of debts and liabilities into the county general fund.

(i) The dissolution of a town under this section does not affect the validity of a contract to which the town is a party.

SECTION 10. IC 36-5-1.1-10.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10.6. (a) This section applies to included towns.

(b) The dissolution of a town under this section may be instituted by filing a petition with the county board of registration. The petition must be signed by at least the number of the registered voters of the town required to place a candidate on the ballot under IC 3-8-6-3. The petition must be filed not later than June 1 of a year in which a general or municipal election will be held.

(c) If a petition meets the criteria set forth in subsection (b), the county board of registration shall certify the public question to the county election board under IC 3-10-9-3. The county election board shall place the question of dissolution on the ballot provided for voters in the included town at the first general or municipal election following certification. The question shall be placed on the ballot in the form prescribed by IC 3-10-9-4 and must state "Shall the town of _____ dissolve?".

(d) If the public question is approved by a majority of the voters voting on the question, the county election board shall file a copy of the

certification prepared under IC 3-12-4-9 concerning the public question described by this section with the following:

- (1) The circuit court clerk of the county.
- (2) The **office of the secretary of state. certifying official designated under IC 3-6-4.2-11.**

(e) Except as provided in subsection (f), dissolution occurs:

- (1) at least sixty (60) days after certification under IC 3-12-4-9; and
- (2) when the certification is filed under subsection (d).

(f) A dissolution under this section may not take effect during the year preceding a year in which a federal decennial census is conducted. A dissolution under this section that would otherwise take effect during the year preceding a year in which the federal decennial census is conducted takes effect January 2 of the year in which a federal decennial census is conducted.

(g) When a town is dissolved under this section:

- (1) the territory included within the town when the ordinance was adopted becomes a part of the consolidated city;
- (2) the books and records of the town become the property of the county executive;
- (3) the property owned by the town after payment of debts and liabilities shall be disposed of by the county executive; and
- (4) the county executive shall deposit any proceeds remaining after payment of debts and liabilities into the county general fund.

(h) The dissolution of a town under this section does not affect the validity of a contract to which the town is a party.

SECTION 11. IC 36-5-1.2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. If an appeal has not been filed, not later than thirty (30) days after adoption of the resolution by the town legislative body, the town clerk-treasurer shall send a certified copy of the resolution to each of the following:

- (1) The clerk of the circuit court of each county in which the town is located.
- (2) The plan commission having jurisdiction, if any.
- (3) The **office of the secretary of state. certifying official designated under IC 3-6-4.2-11.**

SECTION 12. IC 36-6-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) Each

township is known as _____ Township of _____ County, according to the name of the township and the county in which it is located.

(b) The county executive may adopt an order to change the name of the townships in the county. A change of name under this section becomes effective when the county executive files a copy of the order with:

- (1) the circuit court clerk; and
- (2) the **office of the secretary of state**. ~~certifying official designated under IC 3-6-4.2-11.~~

SECTION 13. IC 36-6-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) When part of a township is owned by the state or the United States, devoted to a public use, and withdrawn from taxation for local purposes, and:

- (1) less than eighteen (18) square miles of the township remains subject to taxation; or
- (2) the township is divided into two (2) or more separate sections by the government owned part;

the county executive may issue an order to alter the boundaries of the township and adjoining townships on receipt of a petition signed by at least thirty-five percent (35%) of the resident freeholders of a part of the township adjoining another township.

(b) Except as provided in subsection (c), a boundary alteration under this section is effective when a copy of the order is filed with:

- (1) the circuit court clerk; and
- (2) the **office of the secretary of state**. ~~certifying official designated under IC 3-6-4.2-11.~~

(c) A boundary alteration under this section may not take effect during the year preceding a year in which a federal decennial census is conducted. A boundary alteration that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January 2 of the year in which a federal decennial census is conducted.

SECTION 14. IC 36-6-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Townships other than those described in section 3 of this chapter may be altered or abolished by the issuance of an order by the county executive on receipt of a petition signed by a majority of the freeholders of the

affected township or townships. The alteration or abolition must conform to the terms of the petition.

(b) Except as provided in subsection (c), the alteration or abolition becomes effective when the county executive files a copy of the order with:

- (1) the circuit court clerk; and
- (2) the **office of the secretary of state.** ~~certifying official designated under IC 3-6-4.2-11.~~

(c) The alteration or abolition of a township may not take effect during the year preceding a year in which a federal decennial census is conducted. An alteration or abolition that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January 2 of the year in which a federal decennial census is conducted.

SECTION 15. IC 36-6-1-5.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5.5. (a) This section applies to an area that meets the following conditions:

- (1) Contains not more than seven hundred (700) acres.
- (2) Has a river along at least twenty-five percent (25%) of the perimeter of the area.
- (3) Abuts a different township from the township in which the area is situated.

(b) An area is transferred from the township in which the area is situated to the township that the area abuts if the following conditions are met:

- (1) The transfer results in a rectangular shape for the boundaries of both of the affected townships.
- (2) A petition:
 - (A) containing a legal description of the area; and
 - (B) signed by at least fifty-one percent (51%) of the freeholders in the area;

is filed with the circuit court clerk and the **office of the secretary of state.** ~~certifying official designated under IC 3-6-4.2-11.~~

(c) Section 5(c) of this chapter applies to the alteration of township boundaries under this section.

(d) Except as provided in subsection (e), if the conditions specified in this section are met, the transfer occurs when the filing requirements of subsection (b) are met.

(e) The transfer may not take effect during the year preceding a year in which a federal decennial census is conducted. A transfer that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January 2 of the year in which a federal decennial census is conducted.

SECTION 16. IC 36-6-1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) An action taken by a county executive under this chapter may be appealed to the circuit court of the county. The appeal shall be heard de novo on all questions presented.

(b) If the court orders the name change, alteration, or abolition of a township to take place, the circuit court clerk shall, immediately after the judgment of the court, certify the judgment of the circuit court to:

(1) the township executive; and

(2) the **office of the secretary of state.** ~~certifying official designated under IC 3-6-4.2-11.~~

Except as provided in subsection (c), the order takes effect sixty (60) days after certification.

(c) The name change, alteration, or abolition of a township may not take effect during the year preceding a year in which a federal decennial census is conducted. An alteration or abolition that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January 2 of the year in which a federal decennial census is conducted.

SECTION 17. **An emergency is declared for this act.**

P.L.124-2000

[S.143. Approved March 17, 2000.]

AN ACT to amend the Indiana Code concerning courts and court officers.

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

SECTION 1. IC 33-4-1-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 18. **(a)** The county of Delaware ~~in said State~~, shall constitute the Forty-sixth Judicial Circuit.

(b) There are five (5) judges of the Delaware circuit court.

SECTION 2. IC 33-4-12 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]:

Chapter 12. Delaware Circuit Court

Sec. 1. (a) The Delaware circuit court is a court of general jurisdiction with five (5) judges. The divisions of the court shall be known as Delaware circuit court No. 1, No. 2, No. 3, No. 4, and No. 5. The county of Delaware constitutes the judicial district of the court and each of the court's divisions. The court shall maintain the following dockets:

- (1) Small claims.**
- (2) Minor offenses and violations.**
- (3) Criminal.**
- (4) Juvenile.**
- (5) Civil.**
- (6) Probate.**

(b) The assignment of judges of the court to the dockets specified in subsection (a) shall be by rule of the court. However, Delaware circuit court No. 4 and Delaware circuit court No. 5 shall each have a standard small claims and misdemeanor docket.

Sec. 2. The judges of the Delaware circuit court shall select from among themselves a presiding judge of the court. The presiding judge shall be selected for a minimum term of twelve (12) months.

Sec. 3. Whenever action of the entire court is required, including

selection of a presiding judge under section 2 of this chapter and adoption of rules under section 5 of this chapter, the judges of the court shall act in concert. If the judges disagree, the decision of the majority of the judges controls.

Sec. 4. In accordance with rules adopted by the judges of the Delaware circuit court under section 5 of this chapter, the presiding judge shall do the following:

- (1) Ensure that the court operates efficiently and judicially.
- (2) Annually submit to the fiscal body of Delaware County a budget for the court, including amounts necessary for the following:
 - (A) Operation of the Delaware circuit court's probation department.
 - (B) Defense of indigents.
 - (C) Maintenance of an adequate law library.
- (3) Make appointments or selections required of a circuit or superior court judge.

Sec. 5. (a) The judges of the Delaware circuit court shall adopt rules to provide for the administration of the court, including rules governing the following:

- (1) Allocation of case load.
- (2) Legal representation for indigents.
- (3) Budgetary matters of the court.
- (4) Operation of the probation department.
- (5) Term of administration of the presiding judge.
- (6) Employment and management of court personnel.
- (7) Cooperative efforts with other courts for establishing and administering shared programs and facilities.

(b) The court shall file with the division of state court administration a copy of the rules adopted under this section.

Sec. 6. (a) Each judge of the Delaware circuit court may, subject to the budget approved for the court by the fiscal body of Delaware County, employ personnel necessary for the proper administration of the judge's docket.

(b) Personnel employed under this section:

- (1) include court reporters, bailiffs, clerical staff, and any additional officers necessary for the proper administration of the court; and
- (2) are subject to the rules concerning employment and

management of court personnel adopted by the court under section 5 of this chapter.

(c) A commissioner is entitled to practice law in any division of the court in which the commissioner does not have appointive judicial authority. A commissioner has judicial authority only in the division of the court presided over by the judge who appointed the commissioner.

Sec. 7. (a) The Delaware circuit court may appoint a court administrator subject to the budget approved for the court by the fiscal body of Delaware County.

(b) A court administrator appointed under this section is subject to the rules concerning employment and management of court personnel adopted by the court under section 5 of this chapter.

SECTION 3. IC 33-5-18.1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. The court has the same jurisdiction as the Floyd circuit court, except that only the circuit court has **jurisdiction over juvenile, probate, and trust matters.**

SECTION 4. IC 33-5-25.3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 5. (a) The judge of the court shall appoint a bailiff and an official court reporter for the court.

(b) **The court may appoint a referee and other personnel as the court determines necessary to facilitate and transact the business of the court.**

(c) ~~Their~~ **Salaries of the personnel described in subsections (a) and (b)** shall be fixed in the same manner as the salaries of the bailiff and official court reporter for the Huntington circuit court. Their salaries shall be paid ~~monthly~~ out of the treasury of Huntington County as provided by law.

SECTION 5. IC 33-5-12.1 IS REPEALED [EFFECTIVE JULY 1, 2000].

SECTION 6. [EFFECTIVE JULY 1, 2000] (a) **A judge of the Delaware superior court under IC 33-5-12.1 (repealed by this act) serving on the Delaware superior court on June 30, 2000, is entitled to serve as a judge of the Delaware circuit court created by IC 33-4-12, as added by this act, for a term beginning July 1, 2000. The judge may serve as judge of the Delaware circuit court under IC 33-4-12, as added by this act, until expiration of the Delaware**

superior court term that the judge was serving on June 30, 2000.

(b) The superior court for Delaware County is abolished as of July 1, 2000, and all matters pending in the Delaware superior court on June 30, 2000, shall be transferred to the Delaware circuit court in accordance with the venue requirements prescribed under Rule 75 of the Indiana Rules of Trial Procedure. These matters have the same effect as if originally filed in or issued by the Delaware circuit court.

(c) This SECTION expires January 1, 2003.

SECTION 7. [EFFECTIVE UPON PASSAGE] Floyd superior court and Floyd circuit court shall provide for the orderly transfer of probate and trust cases from the Floyd superior court to the Floyd circuit court upon the effective date of this SECTION. IC 33-5-18.1-3, as amended by this act, does not apply to orders issued by the Floyd superior court before the effective date of IC 33-5-18.1-3, as amended by this act. A proceeding or order of the Floyd superior court in a probate or trust matter conducted or issued before the effective date of IC 33-5-18.1-3, as amended by this act, shall be treated on and after the effective date of IC 33-5-18.1-3, as amended by this act, as if the proceeding or order was conducted or ordered by the Floyd circuit court.

SECTION 8. An emergency is declared for this act.

P.L.125-2000

[S.186. Approved March 17, 2000.]

AN ACT to amend the Indiana Code concerning alcoholic beverages.

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

SECTION 1. IC 7.1-3-18-9, AS AMENDED BY P.L.205-1999, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 9. (a) The commission may issue an employee's permit to a person who desires to act as a clerk in a package liquor

store or as a bartender, waiter, waitress, or manager in a retail establishment, excepting dining car and boat employees.

(b) A permit authorized by this section is conditioned upon the compliance by the holder with reasonable rules relating to the permit which the commission may prescribe from time to time.

(c) A permit issued under this section entitles its holder to work for any lawful employer. However, a person may work without an employee's permit for thirty (30) days from the date shown on a receipt for a cashier's check or money order payable to the commission for that person's employee's permit application.

(d) A person who, for a package liquor store or retail establishment, is:

- (1) the sole proprietor;
- (2) a partner, a general partner, or a limited partner in a partnership or limited partnership that owns the business establishment;
- (3) a member of a limited liability company that owns the business establishment; or
- (4) a stockholder in a corporation that owns the business establishment;

is not required to obtain an employee's permit in order to perform any of the acts listed in subsection (a).

(e) An applicant may declare on the application form that the applicant will use the employee's permit only to perform volunteer service that benefits a nonprofit organization. It is unlawful for an applicant who makes a declaration under this subsection to use an employee's permit for any purpose other than to perform volunteer service that benefits a nonprofit organization.

(f) The commission shall revoke a permit issued to an employee under this section if the employee is convicted of a Class B misdemeanor for violating IC 7.1-5-10-15(a).

SECTION 2. IC 7.1-3-18-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 11. (a) The commission may issue a temporary bartender's permit to any person who is at least twenty-one (21) years of age for any of the following purposes:

- (1) To be a bartender at any activity or event for which a temporary permit is issued under IC 7.1-3-6 (beer) or IC 7.1-3-16 (wine).

(2) To be a bartender at a nonprofit club for a maximum of four (4) days in a year during the same time that a fair or festival is held in the community where the club is located. However, the commission may only issue a maximum of twenty (20) temporary bartender's licenses for use in one (1) club during one (1) fair or festival.

(b) A temporary bartender's permit is the only license that is required for persons to serve as bartenders for the purposes described in subsection (a).

(c) A temporary bartender at a club may dispense any alcoholic beverage that the club's permit allows the club to serve.

(d) The fee for a temporary bartender's permit is four dollars (\$4).

(e) The commission may by rule provide procedures for the issuance of a temporary bartender's permit.

(f) The commission shall revoke a permit issued to a bartender under this section if the bartender is convicted of a Class B misdemeanor for violating IC 7.1-5-10-15(a).

SECTION 3. IC 7.1-3-23-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 7. ~~Suspension: General Rule:~~ **(a) Except as provided in subsection (b),** the commission, after notice and hearing, and for cause other than that expressly provided in this title, may suspend a permit to manufacture, transport or sell alcoholic beverages for not longer than thirty (30) days for the violation of a provision of this title, or for the failure or the refusal to comply with a rule or regulation of the commission.

(b) This subsection applies to an individual charged with a Class B misdemeanor for violating IC 7.1-5-10-15(a). Upon receiving notice of charges filed under IC 7.1-5-10-15(a), the commission:

(1) shall hold a hearing under section 6 of this chapter; and

(2) may suspend the permit of the individual charged with the violation until disposition of the charges.

SECTION 4. IC 7.1-5-10-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 15. (a) It is unlawful for a person to sell, barter, deliver, or give away an alcoholic beverage to another person who is in a state of intoxication if the person knows that the other person is intoxicated.

(b) In any civil proceeding in which damages are sought from a permittee or a permittee's agent for the refusal to serve a person an

alcoholic beverage, it is a complete defense if the permittee or agent reasonably believed that the person was intoxicated or was otherwise not entitled to be served an alcoholic beverage.

(c) After charges have been filed against a person for a violation of subsection (a), the prosecuting attorney shall notify the commission of the charges filed.

P.L.126-2000

[S.187. Approved March 17, 2000.]

AN ACT to amend the Indiana Code concerning taxation.

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

SECTION 1. IC 4-4-3-22 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 22. The department shall establish a public information page on its current Internet site on the world wide web. The page must do the following:**

- (1) Provide, 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.**
- (2) Provide a mechanism on the page whereby the public may request further information on-line about specific programs or incentives awarded.**
- (3) Provide a mechanism for the public receive an electronic response.**

SECTION 2. IC 4-4-4.6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 3.** The department shall do the following:

- (1) Establish policies to carry out a training assistance program, the purpose of which is to provide assistance to the following:
 - (A) New or expanding businesses for the training, retraining, and upgrading of the skills of potential employees.

(B) Businesses in Indiana for the retraining and upgrading of employees' skills required to support new capital investment.

(C) Businesses in Indiana for the development of basic workforce skills of employees, including the following:

(i) Literacy.

(ii) Communication skills.

(iii) Computational skills.

(iv) Other transferable workforce skills approved by the department.

(2) Provide promotional materials regarding the training program.

(3) Determine the eligibility of an industry for the training program.

(4) Require a commitment by a business receiving training assistance under this chapter to continue operations at any site where the training assistance is used for at least five (5) years after the date the training assistance expires. If a business fails to comply with this commitment, the department shall require the business to repay the training assistance provided to it under this chapter.

SECTION 3. IC 6-1.1-10-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 15. (a) The acquisition and improvement of land for use by the public as an airport **and the maintenance of commercial passenger aircraft** is a municipal purpose regardless of whether the airport **or maintenance facility** is owned or operated by a municipality. The owner of any airport located in this state, who holds a valid and current public airport certificate issued by the Indiana department of transportation, may claim an exemption for only so much of the land as is reasonably necessary to and used for public airport purposes. **A person maintaining commercial passenger aircraft in a county having a population of more than two hundred thousand (200,000) but less than four hundred thousand (400,000) may claim an exemption for commercial passenger aircraft not subject to the aircraft excise tax under IC 6-6-6.5 that is being assessed under this article, if it is located in the county only for the purposes of maintenance.**

(b) The exemption provided by this section is noncumulative and applies only to property that would not otherwise be exempt. Nothing contained in this section applies to or affects any other tax exemption

provided by law.

(c) As used in this section, "land used for public airport purposes" includes the following:

- (1) That part of airport land used for the taking off or landing of aircraft, taxiways, runway and taxiway lighting, access roads, auto and aircraft parking areas, and all buildings providing basic facilities for the traveling public.
- (2) Real property owned by the airport owner and used directly for airport operation and maintenance purposes.
- (3) Real property used in providing for the shelter, storage, or care of aircraft, including hangars.
- (4) Housing for weather and signaling equipment, navigational aids, radios, or other electronic equipment.

The term does not include land areas used solely for purposes unrelated to aviation.

SECTION 4. IC 6-1.1-10-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000 (RETROACTIVE)]:
Sec. 16. (a) All or part of a building is exempt from property taxation if it is owned, occupied, and used by a person for educational, literary, scientific, religious, or charitable purposes.

(b) A building is exempt from property taxation if it is owned, occupied, and used by a town, city, township, or county for educational, literary, scientific, fraternal, or charitable purposes.

(c) A tract of land, including the campus and athletic grounds of an educational institution, is exempt from property taxation if:

- (1) a building which is exempt under subsection (a) or (b) is situated on it; and
- (2) the tract does not exceed:
 - (A) fifty (50) acres in the case of:
 - (i) an educational institution; or
 - (ii) a tract that was exempt under this subsection on March 1, 1987; or
 - (B) two hundred (200) acres in the case of a local association formed for the purpose of promoting 4-H programs; or**
 - ~~(B)~~ **(C)** fifteen (15) acres in all other cases.

(d) A tract of land is exempt from property taxation if:

- (1) it is purchased for the purpose of erecting a building which is

to be owned, occupied, and used in such a manner that the building will be exempt under subsection (a) or (b);

(2) the tract does not exceed:

(A) fifty (50) acres in the case of:

(i) an educational institution; or

(ii) a tract that was exempt under this subsection on March 1, 1987;

(B) two hundred (200) acres in the case of a local association formed for the purpose of promoting 4-H programs; or

~~(B)~~ (C) fifteen (15) acres in all other cases; and

(3) not more than three (3) years after the property is purchased, and for each year after the three (3) year period, the owner demonstrates substantial progress towards the erection of the intended building and use of the tract for the exempt purpose. To establish that substantial progress is being made, the owner must prove the existence of factors such as the following:

(A) Organization of and activity by a building committee or other oversight group.

(B) Completion and filing of building plans with the appropriate local government authority.

(C) Cash reserves dedicated to the project of a sufficient amount to lead a reasonable individual to believe the actual construction can and will begin within three (3) years.

(D) The breaking of ground and the beginning of actual construction.

(E) Any other factor that would lead a reasonable individual to believe that construction of the building is an active plan and that the building is capable of being completed within six (6) years considering the circumstances of the owner.

(e) Personal property is exempt from property taxation if it is owned and used in such a manner that it would be exempt under subsection (a) or (b) if it were a building.

(f) A hospital's property which is exempt from property taxation under subsection (a), (b), or (e) shall remain exempt from property taxation even if the property is used in part to furnish goods or services to another hospital whose property qualifies for exemption under this section.

(g) Property owned by a shared hospital services organization which is exempt from federal income taxation under Section 501(c)(3) or 501(e) of the Internal Revenue Code is exempt from property taxation if it is owned, occupied, and used exclusively to furnish goods or services to a hospital whose property is exempt from property taxation under subsection (a), (b), or (e).

(h) This section does not exempt from property tax an office or a practice of a physician or group of physicians that is owned by a hospital licensed under IC 16-21-1 or other property that is not substantially related to or supportive of the inpatient facility of the hospital unless the office, practice, or other property:

- (1) provides or supports the provision of charity care (as defined in IC 16-18-2-52.5), including providing funds or other financial support for health care services for individuals who are indigent (as defined in IC 16-18-2-52.5(b) and IC 16-18-2-52.5(c)); or
- (2) provides or supports the provision of community benefits (as defined in IC 16-21-9-1), including research, education, or government sponsored indigent health care (as defined in IC 16-21-9-2).

However, participation in the Medicaid or Medicare program alone does not entitle an office, practice, or other property described in this subsection to an exemption under this section.

(i) A tract of land or a tract of land plus all or part of a structure on the land is exempt from property taxation if:

- (1) the tract is acquired for the purpose of erecting, renovating, or improving a single family residential structure that is to be given away or sold:
 - (A) in a charitable manner;
 - (B) by a nonprofit organization; and
 - (C) to low income individuals who will:
 - (i) use the land as a family residence; and
 - (ii) not have an exemption for the land under this section;
- (2) the tract does not exceed three (3) acres;
- (3) the tract of land or the tract of land plus all or part of a structure on the land is not used for profit while exempt under this section; and
- (4) not more than three (3) years after the property is acquired for the purpose described in subdivision (1), and for each year after

the three (3) year period, the owner demonstrates substantial progress towards the erection, renovation, or improvement of the intended structure. To establish that substantial progress is being made, the owner must prove the existence of factors such as the following:

(A) Organization of and activity by a building committee or other oversight group.

(B) Completion and filing of building plans with the appropriate local government authority.

(C) Cash reserves dedicated to the project of a sufficient amount to lead a reasonable individual to believe the actual construction can and will begin within six (6) years of the initial exemption received under this subsection.

(D) The breaking of ground and the beginning of actual construction.

(E) Any other factor that would lead a reasonable individual to believe that construction of the structure is an active plan and that the structure is capable of being:

(i) completed; and

(ii) transferred to a low income individual who does not receive an exemption under this section;

within six (6) years considering the circumstances of the owner.

(j) An exemption under subsection (i) terminates when the property is conveyed by the nonprofit organization to another owner. When the property is conveyed to another owner, the nonprofit organization receiving the exemption must file a certified statement with the auditor of the county, notifying the auditor of the change not later than sixty (60) days after the date of the conveyance. A nonprofit organization that fails to file the statement required by this subsection is liable for the amount of property taxes due on the property conveyed if it were not for the exemption allowed under this chapter.

(k) If property is granted an exemption in any year under subsection (i) and the owner:

(1) ceases to be eligible for the exemption under subsection (i)(4);

(2) fails to transfer the tangible property within six (6) years after the assessment date for which the exemption is initially granted;

or

(3) transfers the tangible property to a person who:

(A) is not a low income individual; or

(B) does not use the transferred property as a residence for at least one (1) year after the property is transferred;

the person receiving the exemption shall notify the county recorder and the county auditor of the county in which the property is located not later than sixty (60) days after the event described in subdivision (1), (2), or (3) occurs.

(l) If subsection (k)(1), (k)(2), or (k)(3) applies, the owner shall pay, not later than the date that the next installment of property taxes is due, an amount equal to the sum of the following:

(1) The total property taxes that, if it were not for the exemption under subsection (i), would have been levied on the property in each year in which an exemption was allowed.

(2) Interest on the property taxes at the rate of ten percent (10%) per year.

(m) The liability imposed by subsection (l) is a lien upon the property receiving the exemption under subsection (i). An amount collected under subsection (l) shall be collected as an excess levy. If the amount is not paid, it shall be collected in the same manner that delinquent taxes on real property are collected.

SECTION 5. IC 6-1.1-12.1-3, AS AMENDED BY P.L.4-2000, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 3. (a) An applicant must provide a statement of benefits to the designating body. If the designating body requires information from the applicant for economic revitalization area status for use in making its decision about whether to designate an economic revitalization area, the applicant shall provide the completed statement of benefits form to the designating body before the hearing required by section 2.5(c) of this chapter. Otherwise, the statement of benefits form must be submitted to the designating body before the initiation of the redevelopment or rehabilitation for which the person desires to claim a deduction under this chapter. The state board of tax commissioners shall prescribe a form for the statement of benefits. The statement of benefits must include the following information:

(1) A description of the proposed redevelopment or rehabilitation.

(2) An estimate of the number of individuals who will be employed or whose employment will be retained by the person as

a result of the redevelopment or rehabilitation and an estimate of the annual salaries of these individuals.

(3) An estimate of the value of the redevelopment or rehabilitation.

With the approval of the state board of tax commissioners, the statement of benefits may be incorporated in a designation application. Notwithstanding any other law, a statement of benefits is a public record that may be inspected and copied under IC 5-14-3-3.

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

(1) Whether the estimate of the value of the redevelopment or rehabilitation is reasonable for projects of that nature.

(2) Whether the estimate of the number of individuals who will be employed or whose employment will be retained can be reasonably expected to result from the proposed described redevelopment or rehabilitation.

(3) Whether the estimate of the annual salaries of those individuals who will be employed or whose employment will be retained can be reasonably expected to result from the proposed described redevelopment or rehabilitation.

(4) Whether any other benefits about which information was requested are benefits that can be reasonably expected to result from the proposed described redevelopment or rehabilitation.

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

A designating body may not designate an area an economic revitalization area or approve a deduction unless the findings required by this subsection are made in the affirmative.

(c) Except as provided in subsections (a) through (b), the owner of property which is located in an economic revitalization area is entitled to a deduction from the assessed value of the property. If the area is a residentially distressed area, the period is not more than five (5) years. For all other economic revitalization areas designated before July 1, 2000, the period is three (3), six (6), or ten (10) years. For all economic revitalization areas designated after June 30, 2000, the period is the

number of years determined under subsection (d). The owner is entitled to a deduction if:

- (1) the property has been rehabilitated; or
- (2) the property is located on real estate which has been redeveloped.

The owner is entitled to the deduction for the first year, and any successive year or years, in which an increase in assessed value resulting from the rehabilitation or redevelopment occurs and for the following years determined under subsection (d). However, property owners who had an area designated an urban development area pursuant to an application filed prior to January 1, 1979, are only entitled to a deduction for a five (5) year period. In addition, property owners who are entitled to a deduction under this chapter pursuant to an application filed after December 31, 1978, and before January 1, 1986, are entitled to a deduction for a ten (10) year period.

(d) For an area designated as an economic revitalization area after June 30, 2000, that is not a residentially distressed area, the designating body shall determine the number of years for which the property owner is entitled to a deduction. However, the deduction may not be allowed for more than ten (10) years. This determination shall be made:

- (1) as part of the resolution adopted under section 2.5 of this chapter; or
- (2) by resolution adopted within sixty (60) days after receiving a copy of a property owner's certified deduction application from the county auditor. A certified copy of the resolution shall be sent to the county auditor who shall make the deduction as provided in section 5 of this chapter.

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

(e) Except for deductions related to redevelopment or rehabilitation of real property in a county containing a consolidated city or a deduction related to redevelopment or rehabilitation of real property initiated before December 31, 1987, in areas designated as economic revitalization areas before that date, a deduction for the redevelopment or rehabilitation of real property may not be approved for the following facilities:

- (1) Private or commercial golf course.

- (2) Country club.
- (3) Massage parlor.
- (4) Tennis club.
- (5) Skating facility (including roller skating, skateboarding, or ice skating).
- (6) Racquet sport facility (including any handball or racquetball court).
- (7) Hot tub facility.
- (8) Suntan facility.
- (9) Racetrack.
- (10) Any facility the primary purpose of which is:
 - (A) retail food and beverage service;
 - (B) automobile sales or service; or
 - (C) other retail;
 unless the facility is located in an economic development target area established under section 7 of this chapter.
- (11) Residential, unless:
 - (A) the facility is a multifamily facility that contains at least twenty percent (20%) of the units available for use by low and moderate income individuals;
 - (B) the facility is located in an economic development target area established under section 7 of this chapter; or
 - (C) the area is designated as a residentially distressed area.
- (12) A package liquor store that holds a liquor dealer's permit under IC 7.1-3-10 or any other entity that is required to operate under a license issued under IC 7.1. However, this subdivision does not apply to an applicant that:
 - (A) was eligible for tax abatement under this chapter before July 1, 1995; or
 - (B) is described in IC 7.1-5-7-11.

(f) This subsection applies only to a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000). Notwithstanding subsection (e)(11), in a county subject to this subsection a designating body may, before September 1, 2000, approve a deduction under this chapter for the redevelopment or rehabilitation of real property consisting of residential facilities that are located in unincorporated areas of the county if the designating body makes a finding that the

facilities are needed to serve any combination of the following:

- (1) Elderly persons who are predominately low-income or moderate-income persons.
- (2) Disabled persons.

A designating body may adopt an ordinance approving a deduction under this subsection only one (1) time. This subsection expires January 1, 2011.

SECTION 6. IC 6-1.1-12.1-4.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 4.6. (a) A designating body may adopt a resolution to authorize a property owner to relocate new manufacturing equipment for which a deduction is being granted under this chapter. The resolution may provide that the new manufacturing equipment may only be relocated to:**

- (1) a new location within the same economic revitalization area; or
- (2) a new location within a different economic revitalization area if the area is within the jurisdiction of the designating body.

(b) Before adopting a resolution under this section, the designating body shall conduct a public hearing on the proposed resolution. Notice of the public hearing shall be published in accordance with IC 5-3-1. In addition, the designating body shall notify each taxing unit within the original and the new economic revitalization area of the proposed resolution, including the date and time of the public hearing. If a resolution is adopted under this section, the designating body shall deliver a copy of the adopted resolution to the county auditor and the state board of tax commissioners within thirty (30) days after its adoption.

(c) New manufacturing equipment relocated under this section remains eligible for the assessed value deduction under this chapter. However, the same deduction percentage is to be applied as if the new manufacturing equipment had not been relocated.

SECTION 7. IC 6-1.1-12.1-4.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1998 (RETROACTIVE)]: **Sec. 4.7. Section 4.5(f) of this chapter does not apply to new manufacturing equipment located in a township that:**

- (1) has a population of more than three thousand five hundred

(3,500) but less than four thousand three hundred (4,300); and
(2) is located in a county having a population of more than
thirty-five thousand (35,000) but less than thirty-seven
thousand (37,000);

if the total original cost of all new manufacturing equipment placed
into service by the owner during the preceding sixty (60) months
exceeds fifty million dollars (\$50,000,000), and if the economic
revitalization area in which the new manufacturing equipment was
installed was approved by the designating body before September
1, 1994.

SECTION 8. [EFFECTIVE JANUARY 1, 1999 (RETROACTIVE)]

(a) This SECTION applies to a property owner that:

- (1) before January 1, 1999, received a notice from a consolidated city that offered to provide assessed value deductions to the property owner under IC 6-1.1-12.1;
- (2) has fulfilled all expectations of the consolidated city concerning job creation or retention, capital investment, and other requirements imposed by the consolidated city; and
- (3) is not eligible for the assessed value deductions described in the agreement because of the failure of the property owner or the consolidated city, or both, to comply with one (1) or more requirements of IC 6-1.1-12.1.

(b) Notwithstanding IC 6-1.1-12.1, the consolidated city may grant the assessed value deductions described in subsection (a) if, before July 1, 2000, both the property owner and the consolidated city complete all the procedures required by IC 6-1.1-12.1 that would have been necessary to comply with IC 6-1.1-12.1 and grant the deductions described in subsection (a).

(c) Assessed value deductions granted under this SECTION apply to property taxes first due and payable after December 31, 1997. However, the interest provided for in IC 6-1.1.-37-11 does not apply to a property tax refund due the property owner as a result of this SECTION.

(d) This SECTION expires July 2, 2000.

SECTION 9. [EFFECTIVE UPON PASSAGE] IC 6-1.1-10-16, as amended by this act, applies to assessments for March 1, 2000, and property taxes first due and payable after December 31, 2000.

SECTION 10. An emergency is declared for this act.

P.L.127-2000

[S.227. Approved March 17, 2000.]

AN ACT to amend the Indiana Code concerning property.

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

SECTION 1. IC 4-10-10-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 11. (a) This section applies to a warrant drawn by the state auditor upon funds in custody of the state treasurer or a check authorized by law to be issued from funds in custody of any other state agency, if the check or warrant is outstanding and unpaid, but is not determined to be unclaimed property under IC 32-9-1.5.**

(b) An agreement for which the primary purpose is to pay compensation to locate, deliver, recover, or assist in the recovery of a check or warrant described in subsection (a) is valid only if:

- (1) the fee or compensation agreed upon is not more than ten percent (10%) of the amount collected unless the amount collected is fifty dollars (\$50) or less;**
- (2) the agreement is in writing;**
- (3) the agreement is signed by the apparent owner of the check or warrant described in subsection (a); and**
- (4) the agreement clearly sets forth:**
 - (A) the nature and value of the property; and**
 - (B) the value of the apparent owner's share after the fee or compensation has been deducted.**

(c) This section does not prevent an owner from asserting at any time that an agreement to locate property is otherwise invalid.

SECTION 2. IC 5-11-10.5-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 7. (a) This section applies to a warrant or a check drawn from the public funds of a political subdivision, if the check or warrant is outstanding and unpaid, but is not determined to be unclaimed property under IC 32-9-1.5.**

(b) An agreement for which the primary purpose is to pay compensation to locate, deliver, recover, or assist in the recovery of a check or warrant described in subsection (a) is valid only if:

- (1) the fee or compensation agreed upon is not more than ten percent (10%) of the amount collected unless the amount collected is fifty dollars (\$50) or less;**
- (2) the agreement is in writing;**
- (3) the agreement is signed by the apparent owner; and**
- (4) the agreement clearly sets forth:**
 - (A) the nature and value of the property; and**
 - (B) the value of the apparent owner's share after the fee or compensation has been deducted.**

(c) This section does not prevent an owner from asserting at any time that an agreement to locate property is otherwise invalid.

SECTION 3. IC 32-9-1.5-7.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 7.5. As used in this chapter, "financial institution" means **a depository financial institution that is organized or reorganized under Indiana law, the law of another state, or United States law. The term includes any of the following:**

- (1) A commercial bank.
- (2) A trust company.
- (3) A savings bank.
- (4) A savings association.
- (5) A credit union.
- (6) An industrial loan and investment company. ~~or~~
- (7) Any other entity that has powers similar to the powers of an entity described in subdivisions (1) through (6).

~~organized or reorganized under the laws of the United States or a state.~~

SECTION 4. IC 32-9-1.5-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 17. (a) The definition in this section does not apply to section 24 of this chapter.

(b) Except as provided in subsection (c), as used in this chapter, "property" means an interest in intangible personal property, except an unliquidated claim, and all income or increment derived from the interest, including that which is referred to as or evidenced by:

- (1) money, a check, a draft, a deposit, an interest, or a dividend;
- (2) a credit balance, a customer overpayment, a gift certificate, a

security deposit, a refund, a credit memorandum, an unpaid wage, an unused airline ticket, mineral proceeds, or an unidentified remittance;

- (3) stock and other ownership interest in a business association;
- (4) a bond, debenture, note, or other evidence of indebtedness;
- (5) money deposited to redeem stocks, bonds, coupons, and other securities or to make distributions;
- (6) an amount due and payable under the terms of an insurance policy; and
- (7) an amount distributable from a trust or custodial fund established under a plan to provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employee savings, supplemental unemployment insurance, or similar benefits.

(c) As used in this chapter, "property" does not include transactions between business entities and:

- (1) a motor carrier (as defined in IC 8-2.1-17-10); or**
- (2) a carrier (as defined in 49 U.S.C. 13102(3)).**

SECTION 5. IC 32-9-1.5-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 20. (a) For purposes of this section, an indication of interest in the property by the owner:

- (1) does not include a communication with an owner by an agent of the holder who has not identified in writing the property to the owner; and
- (2) includes the following:
 - (A) The cashing of a dividend check or other instrument of payment received **or evidence that the distribution has been received if the distribution was made by electronic or similar means**, with respect to an account or underlying shares of stock **or other interest in a business association or financial organization**.
 - (B) A deposit to or withdrawal from a bank account.
 - (C) The payment of a premium with respect to a property interest in an insurance policy.
 - (D) The mailing of any correspondence in writing from a financial institution to the owner, including:
 - (i) a statement;
 - (ii) a report of interest paid or credited; or

(iii) any other written advice;
relating to a demand, savings, or matured time deposit account, including a deposit account that is automatically renewable, or any other account or other property the owner has with the financial institution if the correspondence is not returned to the financial institution for nondelivery.

(E) Any activity by the owner that concerns:

(i) another demand, savings, or matured time deposit account or other account that the owner has with a financial institution, including any activity by the owner that results in an increase or decrease in the amount of any other account; or

(ii) any other relationship with the financial institution, including the payment of any amounts due on a loan;
if the mailing address for the owner contained in the financial institution's books and records is the same for both an inactive account and for a related account.

(b) The application of an automatic premium loan provision or other nonforfeiture provision contained in an insurance policy does not prevent the policy from maturing or terminating if the insured has died or the insured or the beneficiary of the policy otherwise has become entitled to the proceeds before the depletion of the cash surrender value of the policy by the application of those provisions.

(c) Property that is held, issued, or owed in the ordinary course of a holder's business is presumed abandoned if the owner or apparent owner has not communicated in writing with the holder concerning the property or has not otherwise given an indication of interest in the property during the following times:

- (1) For traveler's checks, fifteen (15) years after issuance.
- (2) For money orders, seven (7) years after issuance.
- (3) For consumer credits, three (3) years after the credit becomes payable.
- (4) For gift certificates, ~~that are redeemable only in merchandise that is valued for purposes of abandonment at sixty percent (60%) of face value;~~ three (3) years after December 31 of the year in which the gift certificate was sold. **If the gift certificate is redeemable in merchandise only, the amount abandoned is considered to be sixty percent (60%) of the certificate's face**

value.

(5) For amounts owed by an insurer on a life or an endowment insurance policy or an annuity contract:

(A) if the policy or contract has matured or terminated, ~~five (5)~~ **three (3)** years after the obligation to pay arose; or

(B) if the policy or contract is payable upon proof of death, ~~five (5)~~ **three (3)** years after the insured has attained, or would have attained if living, the limiting age under the mortality table on which the reserve is based.

(6) For property distributable by a business association in a course of dissolution, one (1) year after the property becomes distributable.

(7) **Until January 1, 2002**, for property or proceeds held by a court, ten (10) years after the property or proceeds become distributable. **Beginning January 1, 2002, for property or proceeds held by a court or a court clerk, other than property or proceeds related to child support, five (5) years after the property or proceeds become distributable.** The property or proceeds must be treated as unclaimed property under IC 32-9-8. **Beginning January 1, 2002, for property or proceeds related to child support held by a court or a court clerk, ten (10) years after the property or proceeds become distributable.**

(8) For property held by a state or other government, governmental subdivision or agency, or public corporation or other public authority, one (1) year after the property becomes distributable.

(9) For compensation for personal services, one (1) year after the compensation becomes payable.

(10) For deposits and refunds held for subscribers by utilities, one (1) year after the deposits or refunds became payable.

(11) ~~Except as provided in subdivision (12);~~ For stock or other interest in a business association, ~~seven (7)~~ **five (5)** years after **the earlier of:**

(A) the date of the last dividend, **stock split**, or other distribution ~~paid with respect to the stock or other interest:~~ **unclaimed by the apparent owner; or**

(B) **the date of the second mailing of a statement of account or other notification or communication that was:**

- (i) returned as undeliverable; or
- (ii) made after the holder discontinued mailings to the apparent owner.

(12) For stock or other interest in a business association for which:

- (A) a dividend has not been paid on the stock or other interest for seven (7) consecutive years; or
- (B) the stock or other interest is held under a plan that provides for the automatic reinvestment of dividends or other distributions;

the earliest of seven (7) years after the date of the second mailing of official shareholder notifications or communications that were returned as undeliverable; or the date the holder discontinued the mailings to the shareholder:

(13) (12) For property in an individual retirement account or another account or plan that is qualified for tax deferral under the Internal Revenue Code, ~~one (1) year~~ **three (3) years** after the earliest of:

- (A) the actual date of the distribution or attempted distribution;
- (B) the distribution date as stated in the plan or trust agreement governing the plan; or
- (C) the date specified in the Internal Revenue Code by which distribution must begin in order to avoid a tax penalty.

However, if during the four (4) years before the commencement of the ~~one (1) year~~ abandonment period the apparent owner has communicated in writing with the holder concerning the property or otherwise indicated an interest in the property, then the date of the presumed abandonment is ~~one (1) additional year~~ after the property would otherwise have been presumed abandoned:

(14) (13) For a demand, savings, or matured time deposit, including a deposit that is automatically renewable, ~~seven (7) five (5) years~~ after maturity or ~~seven (7) five (5) years~~ after the date of the last indication by the owner of interest in the property, whichever is ~~later~~ **earlier**. Property that is automatically renewable is considered matured for purposes of this section upon the expiration of its initial period, unless the owner has consented to a renewal at or about the time of the renewal, and the consent

is in writing or is evidenced by a memorandum or other record on file with the holder.

~~(15)~~ **(14)** For all other property, ~~seven (7)~~ **the earlier of five (5)** years after:

(A) the owner's right to demand the property; or

(B) the obligation to pay or distribute the property;

arose.

(d) Property is payable or distributed for purposes of this chapter notwithstanding the owner's failure to make demand or present an instrument or a document otherwise required to receive payment.

SECTION 6. IC 32-9-1.5-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 24. All tangible and intangible property held in a safe deposit box or any other safekeeping depository in Indiana in the ordinary course of the holder's business and the proceeds resulting from the sale of the property permitted by other law, which remains unclaimed by the owner for more than ~~seven (7)~~ **five (5)** years after expiration of the lease or rental period on the box or other depository, is presumed abandoned.

SECTION 7. IC 32-9-1.5-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 26. (a) A holder of property presumed abandoned and subject to custody as unclaimed property under this chapter shall report in writing to the attorney general concerning the property. Items of value of less than fifty dollars (\$50) may be reported by the holder in the aggregate.

(b) For each item with a value of fifty dollars (\$50) or more, the report required under subsection (a) must be verified and include the following:

(1) Except with respect to traveler's checks and money orders, the apparent owner's:

(A) name, if known;

(B) last known address, if any; and

(C) Social Security number or taxpayer identification number, if readily ascertainable.

(2) In the case of the contents of a safe deposit box or other safekeeping depository of tangible property:

(A) a description of the property;

(B) the place where the property is held and may be inspected by the attorney general; and

- (C) any amounts owing to the holder.
- (3) The date:
 - (A) the property became payable, demandable, or returnable; and
 - (B) of the last transaction with the apparent owner with respect to the property.
- (4) Other information that the attorney general requires by rules adopted under IC 4-22-2 as necessary for the administration of this chapter.
- (c) If a holder of property presumed abandoned and subject to custody as unclaimed property is a successor to another person who previously held the property for the apparent owner or if the holder has changed its name while holding the property, the holder shall file with the report the former names of the holder, if any, and the known names and addresses of all previous holders of the property.
- (d) The report required by subsection (a) must be filed as follows:
 - (1) The report of a life insurance company must be filed before May 1 of each year for the calendar year preceding the year in which the report is filed.
 - (2) All other holders must file the report before November 1 of each year to cover the year preceding July 1 of the year in which the report is filed.
- (e) The holder of property presumed abandoned and subject to custody as unclaimed property under this chapter shall send written notice to the apparent owner, not more than one hundred twenty (120) days or less than ~~thirty (30)~~ **sixty (60)** days before filing the report required by this section, stating that the holder is in possession of property subject to this chapter if:
 - (1) the holder has a record of an address for the apparent owner that the holder's records do not show as inaccurate; ~~and~~
 - (2) the claim of the apparent owner is not barred by the statute of limitations; **and**
 - (3) the value of the property is at least fifty dollars (\$50).**
- (f) Before the date of filing the report the holder may request the attorney general to extend the time for filing the report. The attorney general may grant the extension upon a showing of good cause. The holder, upon receipt of the extension, may make an interim payment on the amount the holder estimates will ultimately be due, which will

suspend the accrual of interest on the amount paid.

(g) The holder shall file with the report an affidavit stating that the holder has complied with this section.

SECTION 8. IC 32-9-1.5-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 27. (a) Except as provided in ~~subsection~~ **subsections (b) and (c)**, on the date a report is filed under section 26 of this chapter, the holder shall pay or deliver to the attorney general the property described in the report as unclaimed.

(b) In the case of an automatically renewable deposit, if at the time of delivery under subsection (a), a penalty or forfeiture in the payment of interest would result from the delivery of the property, the time for delivery is extended until the earliest date upon which a penalty or forfeiture would not result.

(c) Tangible property held in a safe deposit box or other safekeeping depository may not be delivered to the attorney general until one hundred twenty (120) days after the date the report describing the property under section 26 of this chapter is filed.

(d) If the property reported to the attorney general is a security or security entitlement under IC 26-1-8.1, the attorney general is an appropriate person to make an endorsement, instruction, or entitlement order on behalf of the apparent owner to invoke the duty of the issuer or its transfer agent or the securities intermediary to transfer or dispose of the security or the security entitlement in accordance with IC 26-1-8.1.

(e) If the holder of property reported to the attorney general is the issuer of a certificated security, the attorney general has the right to obtain a replacement certificate under IC 26-1-8.1-405, but an indemnity bond is not required.

(f) An issuer, the holder, and any transfer agent or other person acting under the instructions of and on behalf of the issuer in accordance with this section is not liable to the apparent owner and must be indemnified against the claims of any person in accordance with section 29 of this chapter.

SECTION 9. IC 32-9-1.5-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 28. (a) Except as provided in subsection (e), the attorney general shall cause a notice to be published not later than November 30 of the year immediately

following the year in which unclaimed property has been paid or delivered to the attorney general.

(b) Except as provided in subsection (c), the notice required by subsection (a) must be published at least once each week for two (2) successive weeks in a newspaper of general circulation published in the county in Indiana of the last known address of any person named in the notice.

(c) If the holder does not report an address for the apparent owner, or reports an address outside Indiana, the notice must be published in the county in which the holder has its principal place of business within Indiana or such other county as the attorney general may reasonably select.

(d) The advertised notice required by this section must be in a form that, in the judgment of the attorney general, will attract the attention of the apparent owner of the unclaimed property and must contain the following information:

(1) The name of each person appearing to be an owner of property presumed abandoned, as set forth in the report filed by the holder.

(2) The last known address or location of each person appearing to be an owner of property presumed abandoned, if an address or a location is set forth in the report filed by the holder.

(3) A statement explaining that property of the owner is presumed to be abandoned and has been taken into the protective custody of the attorney general.

(4) A statement that information about the abandoned property and its return to the owner is available to a person having a legal or beneficial interest in the property, upon request to the attorney general.

(e) The attorney general is not required to publish **the following** in the notice:

(1) Any item of less than fifty dollars (\$50) in value.

(2) **Information concerning a traveler's check, money order, or similar instrument.**

SECTION 10. IC 32-9-1.5-36 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 36. (a) A person, not including another state, claiming an interest in property paid or delivered to the attorney general may file a claim on a form prescribed by the attorney general and verified by the claimant.

(b) **Not later than ninety (90) days after a claim is filed**, the attorney general shall:

(1) consider the claim; and

(2) give written notice to the claimant that the claim is granted or the claim is denied in whole or in part.

(c) Not later than thirty (30) days after a claim is allowed, the attorney general shall pay over or deliver to the claimant the property or the net proceeds of the sale of property if the property has been sold by the attorney general, together with any additional amount to which the claimant may be entitled under section 30 of this chapter.

(d) A holder who pays the owner for property that has been delivered to the state and that, if claimed from the attorney general by the owner, would be subject to an increment under section 30 of this chapter shall recover the amount of such increment from the attorney general.

(e) A person may file a claim under subsection (a) at any time within twenty-five (25) years after the date on which the property was first presumed abandoned under this chapter, notwithstanding the expiration of any other time specified by statute, contract, or court order during which an action or a proceeding may be commenced or enforced to obtain payment of a claim for money or recovery of property.

SECTION 11. IC 32-9-1.5-37 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 37. (a) At any time within twenty-five (25) years after the date on which the property was presumed abandoned under this chapter, notwithstanding the expiration of any other time specified by statute, contract, or court order during which an action or proceeding may be commenced or enforced to obtain payment of a claim for money or recovery of property, another state may recover the property if:

(1) the property was delivered to the custody of this state because the records of the holder did not reflect the last known address of the apparent owner when the property was presumed abandoned under this chapter, and:

(A) the other state establishes that the last known address of the apparent owner or other person entitled to the property was in that state; and

(B) under the laws of that state the property escheated to or

- was subject to a claim of abandonment by that state;
- (2) ~~the last known address of the apparent owner or other person entitled to the property, as reflected by the records of the holder, is in the other state the property was paid or delivered to the custody of this state because the laws of the other state did not provide for the escheat or custodial taking of the property,~~ and under the laws of that state **subsequently enacted** the property has escheated to or become subject to a claim of abandonment by that state;
- (3) the records of the holder did not accurately identify the owner of the property and:
- (A) the last known address of the owner is in the other state; and
 - (B) under the laws of the other state the property escheated to or was subject to a claim of abandonment by that state;
- (4) the property was subject to custody by this state under section 21(7) of this chapter and under the laws of the state of domicile of the holder the property has escheated to or become subject to a claim of abandonment by that state; or
- (5) the property is a sum payable on a traveler's check, money order, or similar instrument that was delivered into the custody of this state under section 21(7) of this chapter, and:
- (A) the instrument was purchased in the other state; and
 - (B) under the laws of the other state the property escheated to or is subject to a claim of abandonment by that state.
- (b) A claim of another state to recover escheated or abandoned property must be presented in a form prescribed by the attorney general, who shall consider the claim and give written notice **not more than ninety (90) days after the presentation of the claim** to the other state that the claim is granted or denied in whole or in part. The attorney general shall allow the claim upon a determination that the other state is entitled to the abandoned property under subsection (a).
- (c) The attorney general shall require another state, before recovering property under this section, to agree to indemnify this state and its officers and employees against any liability on a claim for the property.

SECTION 12. IC 32-9-1.5-38.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2000]: **Sec. 38.1. A person:**

- (1) aggrieved by a decision of the attorney general; or**
- (2) whose claim has not been acted upon within ninety (90) days after its filing;**

under this chapter, may maintain an original action to establish the claim in a court with jurisdiction, naming the attorney general as a defendant.

SECTION 13. IC 32-9-1.5-43 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 43. (a) The attorney general may require a person who has not filed a report, or a person who the attorney general believes has filed an inaccurate, an incomplete, or a false report, to file a verified report in a form prescribed by the attorney general stating the following:

- (1) Whether the person is holding any unclaimed property reportable or deliverable under this chapter.
- (2) Describing any property not previously reported or as to which the attorney general has made inquiry.
- (3) Specifically identifying and stating the amounts of property that may be in issue.

(b) The attorney general, at reasonable times and upon reasonable notice, may examine the records of a person to determine whether the person has complied with this chapter. The attorney general may conduct the examination even if the person believes the person is not in possession of any property reportable or deliverable under this chapter. When making an examination under this chapter the attorney general may retain attorneys, appraisers, independent actuaries, independent certified public accountants, or other professionals and specialists as examiners.

(c) The attorney general may examine the records of an agent, including a dividend disbursing agent or transfer agent, of a business association that is the holder of property presumed abandoned if the attorney general has given the notice required by subsection (b) to both the business association and the agent at least ninety (90) days before the examination.

(d) If an examination of the records of a person results in the disclosure of property reportable and deliverable under this chapter, the attorney general may assess the cost of the examination against the holder at the rate of two hundred dollars (\$200) a day for each

examiner. The cost of the examination made under subsection (c) may be imposed only against the business association.

~~(e) This section does not limit the attorney general's authority to terminate or suspend an examination in order to pursue other legal or administrative action under this chapter. Findings of fact and conclusions made pursuant to an examination are prima facie evidence in a legal or an administrative action.~~

~~(f)~~ (e) If a holder fails after July 1, 1996, to maintain the records required under section 44 of this chapter and the available records of the holder are insufficient to permit the preparation of a report, the attorney general may require the holder to report and pay such amounts as may reasonably be estimated from any available records of the holder or on the basis of any other reasonable estimating technique that the attorney general may select.

SECTION 14. IC 32-9-1.5-44 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 44. (a) Except as provided in subsection (b) and subject to rules adopted by the attorney general under IC 4-22-2, a holder required to file a report under section 26 of this chapter as to any property for which the holder has the last known address of the owner shall maintain a record of the ~~name and last known address of the owner~~ **information required to be in the report** for at least ten (10) years after the property becomes reportable.

(b) A business association that sells in Indiana traveler's checks, money orders, or other similar written instruments, other than third-party bank checks on which the business association is directly liable, or that provides those instruments to others for sale in Indiana, shall maintain a record of outstanding instruments indicating the state and date of issue for at least three (3) years after the date the property is reportable.

SECTION 15. IC 32-9-1.5-46 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 46. (a) The attorney general may enter into agreements with other states to exchange information relating to unclaimed property or the possible existence of unclaimed property. The agreements may permit other states, or a person acting on behalf of a state, to examine records as authorized in section 43 of this chapter. The attorney general may by rule require the reporting of information needed to enable compliance with agreements made under this section and prescribe the form.

(b) The attorney general may join with other states to seek enforcement of this chapter against a person who is or may be holding property reportable under this chapter.

(c) At the request of another state, the attorney general may commence an action on behalf of the administrator of the other state to enforce in Indiana the unclaimed property laws of the other state against a holder of property subject to escheat or a claim of abandonment by the other state, if the other state has agreed to pay expenses incurred by the attorney general in maintaining the action.

(d) The attorney general may request that the attorney general of another state or any other attorney commence an action on behalf of the attorney general in another state. The attorney general may retain another attorney to commence an action in Indiana on behalf of the attorney general. This state shall pay all expenses including attorney's fees in maintaining an action under this subsection. With the attorney general's approval, the expenses and attorney's fees may be paid from money received under this chapter. The attorney general may agree to pay the person bringing the action attorney's fees based in whole or in part on a percentage of the value of any property recovered in the action. Expenses or attorney's fees paid under this subsection may not be deducted from the amount that is subject to the claim by the owner under this chapter.

(e) Documents and working papers obtained or compiled by the attorney general or the attorney general's agents, employees, or designated representatives in the course of conducting an audit under section 43 of this chapter are confidential and are not public records except:

- (1) when used by the attorney general to maintain an action to collect unclaimed property or otherwise enforce this chapter;
- (2) when used in joint audits conducted with or under agreements with other states, the federal government, or other governmental entities; or
- (3) pursuant to subpoena or court order.

The documents and working papers may be disclosed to the abandoned property office of another state for that state's use in circumstances equivalent to those described in this subsection if the other state is bound to keep the documents and papers confidential.

(f) The attorney general's final completed audit reports are public

records, available for inspection and copying under IC 5-14-3. A final report may not contain confidential documentation or working papers unless an exception under subsection (e) applies.

SECTION 16. IC 32-9-1.5-48 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 48. (a) An agreement by an owner, **the primary purpose of which is** to pay compensation to locate, deliver, recover, or assist in the recovery of property ~~reported~~ **presumed abandoned** under this chapter that is entered into **not earlier than the date the property was presumed abandoned and** not later than twenty-four (24) months after the date the property is paid or delivered to the attorney general is void and unenforceable. **This subsection does not apply to an owner's agreement with an attorney to file a claim as to identified property or to contest the attorney general's denial of a claim.**

(b) An agreement ~~described in subsection (a) that is entered into more than twenty-four (24) months after the date the property is paid or delivered to the attorney general by an owner,~~ **the primary purpose of which is to locate, deliver, recover, or assist in the recovery of property,** is valid only if:

- (1) the fee or compensation agreed upon is not more than ten percent (10%) of the amount collected unless the amount collected is fifty dollars (\$50) or less;
- (2) the agreement is in writing;
- (3) the agreement is signed by the apparent owner;
- (4) the agreement clearly sets forth:
 - (A) the nature and value of the property; and
 - (B) the value of the apparent owner's share after the fee or compensation has been deducted; and
- (5) the agreement contains the provision set forth in subsection (d).

(c) This section does not prevent an owner from asserting at any time that an agreement to locate property is otherwise invalid.

(d) This subsection applies to a person who locates, delivers, recovers, or assists in the recovery of property reported under this chapter for a fee or compensation. An advertisement, a written communication, or an agreement concerning the location, delivery, recovery, or assistance in the recovery of property reported under this chapter shall contain a provision stating that by law any contract

provision requiring the payment of a fee for finding property held by the attorney general for less than twenty-four (24) months is void and that fees are limited to not more than ten percent (10%) of the amount collected unless the amount collected is fifty dollars (\$50) or less.

(e) Subsections ~~(b)(1)~~; ~~(b)(5)~~; **(b)(4)** and (d) do not apply to attorney's fees.

(f) If an agreement covered by this section applies to mineral proceeds and the agreement contains a provision to pay compensation that includes a portion of the underlying minerals or any mineral proceeds not then presumed abandoned, the provision is void and unenforceable.

(g) An agreement covered by this section that provides for compensation that is unconscionable is unenforceable except by the owner. An owner who has agreed to pay compensation that is unconscionable, or the attorney general on behalf of the owner, may maintain an action to reduce the compensation to a conscionable amount. The court may award reasonable attorney's fees to an owner who prevails in the action.

SECTION 17. IC 32-9-1.5-54 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 54. This chapter shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting it.**

SECTION 18. IC 32-9-8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 2. (a) All money, **other than money related to child support**, that remains in the office of a clerk for a period of ~~ten (10)~~ **five (5) years after being distributable** without being claimed by the person entitled to it shall be collected by the attorney general. **All money related to child support that remains in the office of a clerk for a period of ten (10) years after being distributable without being claimed by the person entitled to it shall be collected by the attorney general.** Clerks shall deliver that money to the attorney general upon demand, and the attorney general shall:

- (1) make a record of the money collected; and
 - (2) turn it over to the treasurer of state.
- (b) The treasurer of state shall deposit the money in the unclaimed

funds account.

SECTION 19. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2000]: IC 32-9-1.5-38; IC 32-9-1.5-39.

P.L.128-2000
[S.233. Approved March 17, 2000.]

AN ACT to amend the Indiana Code concerning securities and insurance.

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

SECTION 1. IC 23-2-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this chapter, unless the context otherwise requires:

(a) "Commissioner" means the securities commissioner provided for in ~~IC 23-2-1-15(a)~~: **section 15(a) of this chapter.**

(b) "Agent" means an individual, other than a broker-dealer, who represents a broker-dealer or issuer in effecting or attempting to effect purchases or sales of securities. A partner, officer, or director of a broker-dealer or issuer or a person occupying a similar status or performing similar functions is an agent only if the person effects or attempts to effect a purchase or sale of securities in Indiana. "Agent" does not include an individual who represents an issuer in:

- (1) effecting transactions in a security exempted by section 2(a)(1), 2(a)(2), 2(a)(3), 2(a)(6), 2(a)(7), or 2(a)(10) of this chapter;
- (2) effecting transactions exempted by section 2(b) of this chapter;
- (3) effecting transactions with existing employees, partners, or directors of the issuer, if no commission or other remuneration is paid or given directly or indirectly for soliciting a person in Indiana; or
- (4) effecting transactions in Indiana limited to those transactions described in Section 15(h)(2) of the Securities Exchange Act of

1934 (15 U.S.C. 78o).

(c) "Broker-dealer" means a person engaged in the business of effecting offers, sales, or purchases of securities for the account of others or for the person's own account. "Broker-dealer" does not include:

- (1) an agent;
- (2) an issuer with respect to the offer or sale of the issuer's own securities;
- (3) a bank, savings institution, or trust company; or
- (4) a person who has no place of business in Indiana if the person effects transactions in Indiana exclusively with:
 - (i) the issuers of the securities involved in the transactions;
 - (ii) other broker-dealers; or
 - (iii) banks, savings institutions, trust companies, insurance companies, investment companies (as defined in the Investment Company Act of 1940, as in effect on December 31, 1990), pension or profit-sharing trusts, or other financial institutions or institutional buyers, whether acting for themselves or as trustees, whether or not the offeror or any of the offerees is then present in Indiana.

(d) "Fraud", "fraudulent", "deceit", and "defraud" mean a misrepresentation of a material fact, a promise or representation or prediction not made honestly or in good faith, or the failure to disclose a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading. This definition does not limit or diminish the full meaning of those terms as applied by or defined in courts of law or equity. These terms are not limited to common law deceit.

(e) "Guaranteed" means guaranteed as to payment of principal, interest, or dividends.

(f) "Issuer" means a person who issues or proposes to issue a security, except that with respect to certificates of deposit, voting-trust certificates, or collateral-trust certificates, or with respect to certificates of interest or shares in an unincorporated investment trust not having a board of directors or person performing similar functions or of the fixed, restricted management, or unit type. The term "issuer" means the person or persons performing the acts and assuming the duties of depository or manager pursuant to the provisions of the trust or other

agreement or instrument under which the security is issued.

(g) "Nonissuer" means not directly or indirectly for the benefit of the issuer.

(h) "Person" means an individual, a corporation, a limited liability company, a partnership, an association, a joint-stock company, a trust where the interests of the beneficiaries are evidenced by a security, an unincorporated organization, a government, or a political subdivision of a government.

(i)(1) "Sale" or "sell" means a contract of sale of, contract to sell, or disposition of, a security, or interest in a security for value.

(2) "Offer" or "offer to sell" means an attempt or offer to dispose of, or solicitation of an offer to purchase, a security, or interest in a security for value.

(3) "Transaction" and "transactions" include the meanings of "sale", "sell", "offer", "offer to sell", and "purchase".

(4) "Purchase" means an acquisition, direct or indirect, of a security or an interest in a security for value.

(5) A security given or delivered with, or as a bonus on account of, a purchase of securities or any other thing is considered to constitute part of the subject of the purchase and to have been offered and sold for value.

(6) A purported gift of assessable stock is considered to involve an offer and sale.

(7) A sale or offer of a warrant or right to purchase or subscribe to another security of the same or another issuer, as well as a sale or offer of a security that gives the holder a present or future right or privilege to convert into another security of the same or another issuer, is considered to include an offer of the other security.

(8) The terms defined in this subsection do not include:

(i) a bona fide secured transaction in or loan of outstanding securities;

(ii) a stock dividend, whether the corporation distributing the dividend is the issuer of the stock or not, if nothing of value is given by the stockholders for the dividend other than the surrender of a right to a cash or property dividend when each stockholder may elect to take the dividend in cash or property or in stock; or

(iii) an act incident to a judicially approved reorganization in

which a security is issued in exchange for one (1) or more outstanding securities, claims, or property interests, or partly in such exchange and partly for cash.

(j) "Securities Act of 1933", "Securities Exchange Act of 1934", "Public Utility Holding Company Act of 1935", and "Investment Company Act of 1940" mean the federal statutes of those names, as in effect on December 31, 1990.

(k) "Security" means a note, stock, treasury stock, bond, debenture, evidence of indebtedness, an interest in a limited liability company or limited liability partnership and any class or series of an interest in a limited liability company or limited liability partnership (including any fractional or other interest in an interest in a limited liability company or limited liability partnership), certificate of interest or participation in a profit-sharing agreement, commodity futures contract, option, put, call, privilege, or other right to purchase or sell a commodity futures contract, margin accounts for the purchase of commodities or commodity futures contracts, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, **viatical settlement contract, any fractional or pooled interest in a viatical settlement contract**, voting-trust certificate, certificate of deposit for a security, certificate of interest or participation in an oil, gas, or mining title or lease or in payments out of production under the title or lease, an automatic extension or rollover of an existing security, or, in general, an interest or instrument commonly known as a "security", or a certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant, option, or right to subscribe to or purchase, any of the foregoing. "Security" does not include:

(~~ti~~) **(1)** an insurance or endowment policy or annuity contract under which an insurance company promises to pay money either in a lump sum or periodically for life or some other specified period;

(~~ti~~) **(2)** a contract or trust agreement under which money is paid pursuant to a charitable remainder annuity trust or a charitable remainder unitrust (described in Section 664 of the Internal Revenue Code), or a pooled income fund (described in Section 642(c)(5) of the Internal Revenue Code) or an annuity contract under which the purchaser receives a charitable contribution

deduction under Section 170 of the Internal Revenue Code; or
(~~iii~~) (3) an interest in a limited liability company or limited liability partnership if the person claiming that the interest is not a security can prove that all of the members of the limited liability company or limited liability partnership are actively engaged in the management of the limited liability company or limited liability partnership.

(l) "State" means a state, territory, or possession of the United States, the District of Columbia, and Puerto Rico.

(m) Corporations are "affiliated" during a period of time when either is the owner of shares of the other representing and possessing fifty percent (50%) or more of the total combined voting power of all classes of stock issued by the other corporation and then outstanding and entitled to vote.

(n) "Investment adviser" means a person who holds himself out to be an investment adviser, or who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, or who, for compensation and as a part of a regular business, issues and promulgates analyses or reports concerning securities. "Investment adviser" does not include any of the following:

- (1) A bank, savings institution, or trust company.
- (2) A lawyer, an accountant, an engineer, or a teacher whose performance of these services is solely incidental to the practice of the person's profession.
- (3) A broker-dealer or its agent whose performance of these services is solely incidental to the conduct of the broker-dealer's business as a broker-dealer and who receives no special compensation for them.
- (4) A publisher of a bona fide newspaper, news column, newsletter, news magazine, or business or financial publication or service, by whatever means communicated, that does not render advice on the specific investment situation of individual clients.
- (5) An investment adviser representative.
- (6) A person who is an investment adviser to an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.).

(7) A person who is registered as an investment adviser under Section 203 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3).

(8) A person who is excluded from the definition of investment adviser under Section 202(a)(11) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2).

(9) Other persons the commissioner may by rule or order designate.

(o) "Transferable share" means a security representing an equity interest in a corporation or business trust, but does not include the shares of open-end investment companies (as defined by the Investment Company Act of 1940, as in effect on December 31, 1990).

(p) A "qualified transfer agent" means:

(1) a bank whose deposits are insured by the Bank Insurance Fund of the Federal Deposit Insurance Corporation; or

(2) a person, independent of the issuer, approved by the commissioner by regulation or by individual order in specific cases.

(q) "Investment adviser representative" means a person, except a person in a clerical or ministerial position:

(1) who is employed by or associated with an investment adviser registered under this chapter; or

(2) who has a place of business located in Indiana and is employed by or associated with a person required to be registered as an investment adviser under Section 203 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3); and

(3) who:

(A) makes recommendations or otherwise renders advice regarding securities;

(B) manages accounts or portfolios of clients;

(C) determines recommendations or advice that should be given regarding securities;

(D) solicits, offers, or negotiates the sale of or sells investment advisory services; or

(E) supervises employees who perform a duty described in this subsection.

(r) "Accredited investor" means a person who is within any of the following categories, or who the issuer reasonably believes is within

any of the following categories, at the time of the sale of securities to the person:

(1) A person who meets the definition of "accredited investor" (as defined under the Securities Act of 1933 in 17 CFR 230.215), and in any other rule or regulation modifying the definition adopted by the Securities and Exchange Commission as in effect on December 31, 1990.

(2) A person to whom an offer or sale may be made without registration pursuant to section 2(b)(8) or 2(b)(9) of this chapter.

(3) Any other person the commissioner may designate by rule or order.

(s) "Federal covered security" refers to a security described as a covered security in Section 18(b) of the Securities Act of 1933 (15 U.S.C. 77r).

(t) "Viatical settlement contract" means an agreement for the purchase, sale, assignment, transfer, devise, or bequest of a portion of a death benefit or ownership of a life insurance policy or contract for consideration that is less than the expected death benefit of the life insurance policy or contract. The term does not include the following:

(1) A loan by an insurer under the terms of a life insurance policy, including a loan secured by the cash value of a policy.

(2) An agreement with a bank, savings bank, savings and loan association, credit union, or other licensed lending institution that takes an assignment of a life insurance policy as collateral for a loan.

(3) The provision of accelerated death benefits by an insurer to an insured under the provisions of a life insurance contract.

(4) Agreements between an insurer and a reinsurer.

(5) An agreement by a person who enters into not more than one (1) such agreement in any five (5) year period to purchase a life insurance policy or contract for the transfer of a life insurance policy for a value that is less than the expected death benefit.

SECTION 2. IC 27-8-19.8-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. As used in this chapter, "viatical settlement contract" means ~~a written~~ **an** agreement between a viatical settlement provider and a viator under the terms of

which the viatical settlement provider gives anything of value to the viator, **which for the purchase, sale, assignment, transfer, devise, or bequest of a portion of the death benefit or ownership of a life insurance policy or contract for consideration that** is less than the expected death benefit of the life insurance policy in return for the viator's assignment, bequest, devise, sale, or transfer of all of the death benefit, certificate, or ownership of the insurance policy to the viatical settlement provider: **or contract.** The term does not include **the following:**

- (1) A loan by a life insurance company **an insurer** under the terms of a life insurance policy, including a loan secured by the cash value of a policy.
- (2) **An agreement with a bank, savings bank, savings and loan association, credit union, or other licensed lending institution that takes an assignment of a life insurance policy as collateral for a loan.**
- (3) **The provision of accelerated death benefits by an insurer to an insured under the provisions of a life insurance contract.**
- (4) **Agreements between an insurer and a reinsurer.**
- (5) **An agreement by a person who enters into not more than one (1) such agreement in any five (5) year period to purchase a life insurance policy or contract for the transfer of a life insurance policy for a value that is less than the expected death benefit.**

SECTION 3. **An emergency is declared for this act.**

P.L.129-1999

[S.262. Approved March 17, 2000.]

AN ACT concerning environmental law.

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

SECTION 1. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "department" refers to the department of**

environmental management.

(b) As used in this SECTION, "excess liability fund" refers to the underground petroleum storage tank excess liability trust fund established by IC 13-23-7-1.

(c) Before September 1, 2000, the department shall develop a nonrule policy document under IC 13-23 to address the circumstances in which a spill or release from an underground storage tank may have migrated to real property that is owned or operated by a person or entity that does not own or operate the site where the underground storage tank is located. The nonrule policy document shall address the following:

(1) Guidance for addressing the need for a responsible party to undertake a reasonable, good faith effort to obtain access to offsite property impacted by a petroleum release or spill.

(2) Guidance for addressing:

(A) when the department may issue an order granting a responsible party offsite access; and

(B) the department's subsequent exercising of its discretion in pursuing an enforcement action against a responsible party for failing to determine the extent of offsite contamination.

(3) Guidance for addressing when the department and its excess liability trust fund may approve for reimbursement under that fund the costs of a responsible party's investigation and remediation efforts, including an initial site characterization and corrective action plan, when offsite contamination has not been fully delineated because of lack of offsite access.

(d) The department shall work with interested stakeholders in developing the nonrule policy document and keep the environmental quality service council apprised of its efforts to develop the nonrule policy document.

(e) This SECTION expires January 1, 2001.

SECTION 2. An emergency is declared for this act.

P.L.130-2000

[S.278. Approved March 17, 2000.]

AN ACT to amend the Indiana Code concerning education.

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

SECTION 1. IC 20-12-61-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. **(a)** There shall be, and hereby is created and established, a two (2) year state college to be devoted primarily to providing **the following:**

(1) Educational opportunities that are occupational or technical in nature for the citizens of Indiana **under section 1 of this chapter.**

(2) Assessment and training services described in subsection (b).

(b) Ivy Tech State College shall help promote education and economic development by providing assessment and training services for the citizens of Indiana that include, but are not limited to, the following:

(1) Determining the skills needed for specific jobs.

(2) Determining whether particular individuals have the skills needed to:

(A) do specific jobs; or

(B) qualify for specific skill certifications.

(3) Developing and delivering training programs designed to help individuals:

(A) acquire the skills needed to do specific jobs;

(B) obtain specific skill certifications; or

(C) improve the quality of the individual's work product.

(c) The community college policy committee shall not consider the provision of assessment and training services by Ivy Tech State College that are authorized by subsection (b) in developing a community college system under IC 20-12-75. Ivy Tech State College is not granted any rights by subsection (b) with respect to the community college system and shall not use the provision of assessment and training services authorized by subsection (b) in

negotiating or developing any aspect of the community college system.

SECTION 2. [EFFECTIVE UPON PASSAGE] (a) IC 20-12-61-2, as amended by this act, is intended to clarify the mission of Ivy Tech State College in helping to promote education and economic development by providing skills assessment and training services.

(b) This SECTION expires January 1, 2006.

SECTION 3. An emergency is declared for this act.

P.L.131-2000

[S.315. Approved March 17, 2000.]

AN ACT to amend the Indiana Code concerning utilities and transportation.

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

SECTION 1. IC 8-3-22 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]:

Chapter 22. Midwest Interstate Passenger Rail Compact

Sec. 1. The purposes of this compact are, through joint or cooperative action, to:

- (1) promote development and implementation of improvements to intercity passenger rail service in the Midwest;**
- (2) coordinate interaction among Midwestern state elected officials and their designees on passenger rail issues;**
- (3) promote development and implementation of long range plans for high speed rail passenger service in the Midwest and among other regions of the United States;**
- (4) work with the public and private sectors at the federal, state, and local levels to ensure coordination among the various entities having an interest in passenger rail service and to promote Midwestern interests regarding passenger rail**

service; and

(5) support efforts of transportation agencies involved in developing and implementing passenger rail service in the Midwest.

Sec. 2. As used in this chapter, "commission" means the Midwest interstate passenger rail compact commission established in section 3 of this chapter.

Sec. 3. (a) The Midwest interstate passenger rail compact commission is created to carry out the duties specified in this compact.

(b) The manner of appointment of commission members, terms of office consistent with the terms of this compact, provisions for removal and suspension, and manner of appointment to fill vacancies shall be determined by each party state under its laws, but each member of the commission must be a resident of the state of appointment.

(c) Commission members serve without compensation from the commission.

(d) The commission consists of four (4) resident members of each state as follows:

(1) The governor, or the governor's designee, who serves during the tenure of office of the governor, or until a successor is named.

(2) One (1) member of the private sector appointed by the governor to serve during the tenure of office of the governor, or until a successor is named.

(3) Two (2) legislators from different political parties, one (1) from each legislative chamber (or two (2) legislators from any unicameral legislature), who serve two (2) year terms, or until successors are appointed, and who are appointed by the appropriate appointing authority in each legislative chamber.

All vacancies must be filled according to the laws of the appointing states. A commission member appointed to fill a vacancy serves until the end of the incomplete term.

(e) Each member state has equal voting privileges, as determined by the commission bylaws.

Sec. 4. (a) The duties of the commission are to:

(1) advocate for the funding and authorization necessary to make passenger rail improvements a reality for the region;

- (2) identify and seek to develop ways that states can form partnerships, including those with rail industry and labor, to implement improved passenger rail service in the region;**
- (3) seek development of a long term, interstate plan for high speed rail passenger service implementation;**
- (4) cooperate with other agencies, regions, and entities to ensure that the Midwest is adequately represented and integrated into national plans for passenger rail development;**
- (5) adopt bylaws governing the activities and procedures of the commission and addressing, among other subjects:
 - (A) the powers and duties of officers; and**
 - (B) the voting rights of commission members, voting procedures, commission business, and any other purposes necessary to fulfill the duties of the commission;****
- (6) expend funds as required to carry out the powers and duties of the commission; and**
- (7) report on the activities of the commission to the legislatures and governors of the member states on an annual basis.**

(b) In addition to its exercise of these duties, the commission may:

- (1) provide multistate advocacy necessary to implement passenger rail systems or plans, as approved by the commission;**
- (2) work with local elected officials, economic development planning organizations, and similar entities to raise the visibility of passenger rail service benefits and needs;**
- (3) educate other state officials, federal agencies, other elected officials, and the public on the advantages of passenger rail as an integral part of an intermodal transportation system in the region;**
- (4) work with federal agency officials and members of Congress to ensure the funding and authorization necessary to develop a long term, interstate plan for high speed rail passenger service implementation.**
- (5) make recommendations to member states;**
- (6) implement or provide oversight for specific rail projects, if requested by each state participating in a particular project and under the terms of a formal agreement approved by the**

- participating states and the commission;
- (7) establish an office and hire staff as necessary;
- (8) contract for or provide services;
- (9) assess dues, according to the terms of this compact;
- (10) conduct research; and
- (11) establish committees.

Sec. 5. (a) The commission shall annually elect from among its members:

- (1) a chair;
- (2) a vice chair, who may not be a resident of the state represented by the chair; and
- (3) any other officers approved in the commission bylaws.

(b) The officers shall perform the functions and exercise the powers specified in the commission bylaws.

Sec. 6. (a) The commission shall meet at least once in each calendar year and at other times as determined by the commission.

(b) Commission business shall be conducted according to the procedures and voting rights specified in the bylaws.

Sec. 7. (a) Except as otherwise provided, the money necessary to finance the general operations of the commission in carrying forth its duties, responsibilities, and powers as stated in this chapter shall be appropriated to the commission by the compacting states, when authorized by the respective legislatures, by equal apportionment among the compacting states.

(b) This compact may not be construed to commit a member state to participate in financing a rail project except as provided by law of the member state.

(c) The commission may accept, for any of its purposes and functions, donations, gifts, grants, and appropriations of money, equipment, supplies, materials, and services from the federal government, from any party state or from any department, agency, or municipality thereof, or from any institution, person, firm, or corporation.

(d) All expenses incurred by the commission in executing the duties imposed upon it by this compact shall be paid by the commission out of the funds available to it.

(e) The commission may not issue a debt instrument.

(f) The commission shall submit to the officer designated by the laws of each party state, periodically as required by the laws of

each party state, a budget of its actual past and estimated future expenditures.

Sec. 8. (a) The states of Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin are eligible to join this compact.

(b) Upon approval of the commission, according to its bylaws, other states may also be declared eligible to join the compact.

(c) For an eligible party state, this compact is effective when that state's legislature enacts the compact into law. However, the compact does not become initially effective until enacted into law by any three (3) party states incorporating the provisions of this compact into the laws of those states.

(d) Amendments to the compact become effective upon their enactment by the legislatures of all compacting states.

Sec. 9. (a) Withdrawal from this compact shall be by enactment of a statute repealing the compact and takes effect one (1) year after the effective date of the statute.

(b) A withdrawing state is liable for any obligations that the withdrawing state may have incurred before the effective date of withdrawal.

(c) If, at any time, a compacting state defaults in the performance of any of its obligations, assumed or imposed, in accordance with the provisions of this compact, all rights, privileges, and benefits conferred by this compact or agreements under the compact shall be suspended from the effective date of the compacting state's default, as fixed by the commission.

(d) The commission shall stipulate the conditions and maximum time for compliance under which the defaulting state may resume its regular status.

(e) Unless the default is remedied under the stipulations and within the time set forth by the commission, this compact may be terminated with respect to the defaulting state by affirmative vote of a majority of the other commission members.

(f) A defaulting state may be reinstated, upon vote of the commission, by performing all acts and obligations as stipulated by the commission.

Sec. 10. (a) The provisions of this compact are severable, and if a phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of a compacting state or of the

United States or the applicability of this compact to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability of this compact to any government, agency, person, or circumstance is not affected.

(b) If this compact entered into is held contrary to the constitution of a compacting state, the compact remains in full force and effect for the remaining states and in full force and effect for the state affected as to all severable matters.

(c) The provisions of this compact shall be liberally construed to effectuate the purposes of the compact.

P.L.132-2000

[S.317. Approved March 17, 2000.]

AN ACT to amend the Indiana Code concerning environmental law.

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

SECTION 1. IC 13-11-2-237.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE SEPTEMBER 1, 2000]: **Sec. 237.5. "Transient noncommunity water system", for purposes of IC 13-18-11, has the meaning set forth in IC 13-18-11-1(a).**

SECTION 2. IC 13-18-11-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE SEPTEMBER 1, 2000]: **Sec. 1. (a) As used in this chapter, "transient noncommunity water system" means a noncommunity water system that does not regularly serve at least twenty-five (25) of the same persons over six (6) months per year.**

(b) The commissioner may determine that this chapter does not apply to any or all of the following:

- (1) A water supply system that is used by fewer than one hundred (100) persons per day during a period of customary usage.**
- (2) A water supply system that serves fewer than twenty-five (25) separate lots or properties: a transient noncommunity water**

system.

SECTION 3. IC 13-18-11-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE SEPTEMBER 1, 2000]: **Sec. 1.5. The department shall adopt regulations to implement certification programs for operators of water treatment plants or water distribution systems. The certification program for the operators shall be classified in accordance with the complexity, size, and source of the water for the treatment system and the complexity and size for the distribution system.**

SECTION 4. IC 13-18-11-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE SEPTEMBER 1, 2000]: Sec. 6. (a) ~~At~~ **A wastewater treatment plant** operator certified under this chapter may renew the operator's certificate biennially by paying a renewal fee of thirty dollars (\$30).

(b) The fee is due and payable ~~on or~~ before ~~July 1~~ **July 2** of the year for which a renewal certificate is issued.

(c) ~~At~~ **A wastewater treatment plant** operator who fails to renew a certificate for three (3) successive years may not receive a renewal certificate without reexamination.

SECTION 5. IC 13-18-11-6.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE SEPTEMBER 1, 2000]: **Sec. 6.5. (a) A water treatment plant operator or water distribution system operator certified under this chapter may renew the operator's certificate triennially by:**

- (1) **paying a renewal fee of thirty dollars (\$30); and**
- (2) **meeting any continuing education requirements established by the department.**

(b) **The:**

- (1) **fee is due and payable; and**
- (2) **proof of compliance with continuing education requirements must be submitted to the department;**

before July 2 of the year for which a renewal certificate is to be issued.

(c) **A water treatment plant operator or a water distribution system operator who fails to renew a certificate within one (1) year after the date the certificate expires may not receive a renewal**

certificate without reexamination.

SECTION 6. IC 13-18-11-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE SEPTEMBER 1, 2000]: Sec. 7. (a) The commissioner shall notify by mail each person certified by the commissioner **as a wastewater treatment plant operator** under this chapter of the following:

- (1) The date of the expiration of the operator's certificate.
- (2) The amount of the required fee for renewal for two (2) years.

(b) The commissioner shall mail the notice at least one (1) month in advance of the date of expiration of the person's certificate to the last known address of the individual on file with the commissioner.

SECTION 7. IC 13-18-11-7.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE SEPTEMBER 1, 2000]: **Sec. 7.5. (a) The commissioner shall notify by mail each person certified by the commissioner as a water treatment plant operator or water distribution system operator under this chapter of the following:**

- (1) The date of expiration of the operator's certificate.**
- (2) The amount of the required fee for renewal for three (3) years.**
- (3) The continuing education required for renewal for three (3) years.**

(b) The commissioner shall mail the notice at least one (1) month in advance of the date of expiration of the person's certificate to the last known address of the individual on file with the commissioner.

SECTION 8. IC 13-18-11-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE SEPTEMBER 1, 2000]: Sec. 8. (a) The commissioner may **suspend or** revoke the certificate of an operator, following a hearing under IC 13-15-7-3 and IC 4-21.5, if any of the following conditions are found:

- (1) The operator has practiced fraud or deception.
- (2) Reasonable care, judgment, or the application of the operator's knowledge or ability was not used in the performance of the operator's duties.
- (3) The operator is incompetent or unable to properly perform the operator's duties.

(b) A hearing and further proceedings shall be conducted in

accordance with IC 4-21.5-7.

SECTION 9. IC 13-18-11-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE SEPTEMBER 1, 2000]: Sec. 10. (a) Certificates in appropriate classification shall be issued upon application and payment of the fee to operators **of wastewater treatment plants** who, on July 1, 1968, ~~for wastewater treatment plants or July 1, 1972; for water treatment plants and water distribution systems;~~ hold certificates of competency attained by examination under the voluntary certification program administered by:

- (1) the Indiana Water Pollution Control Association; or
- (2) the Indiana Section, American Water Works Association.

However, application for a certificate under this subsection must be made not later than July 1, 1969. ~~for wastewater treatment plants or July 1, 1973; for water treatment plants and water distribution systems.~~

(b) Certificates of proper classification shall be issued upon payment of the fee without examination to each person certified by the governing body or owner to have been in direct responsible charge of the **wastewater** treatment plant ~~or distribution system~~ on

- ~~(1) July 1, 1968. for wastewater treatment plants; or~~
- ~~(2) July 1, 1972; for water treatment plants and water distribution systems.~~ A certificate issued under this subsection is valid only for that particular **wastewater** treatment plant, ~~or distribution system,~~ which the certificate must indicate.

SECTION 10. IC 13-18-11-10.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE SEPTEMBER 1, 2000]: **Sec. 10.5. (a) The commissioner may issue a certificate to a person under this chapter if all of the following conditions are met:**

- (1) The person is an operator in responsible charge of a water treatment plant or water distribution system that was:**
 - (A) in operation before September 2, 2000; and**
 - (B) required to have a certified operator for the first time under rules adopted in accordance with guidelines published by the United States Environmental Protection Agency in the Federal Register at 64 FR 5916 et seq.**
- (2) The owner of the water treatment plant or water distribution system applies for a certificate for the operator in responsible charge before September 1, 2002.**

(3) The certificate issued by the commissioner:

(A) is site specific; and

(B) may not be transferred to another operator.

(4) The certificate will become invalid if the classification of the water treatment plant or water distribution system for which the certificate was issued changes to a higher level.

(b) A person certified under subsection (a) must meet all requirements for certification renewal that apply to the classification of the water treatment plant or water distribution system to renew the certificate under this chapter.

(c) A person certified under subsection (a) who commences work for a different water treatment plant or water distribution system must meet the initial certification requirements for the plant or system.

(d) Notwithstanding section 14 of this chapter, a water treatment plant or water distribution system that meets the conditions of subsection (a)(1) may continue to operate if the water treatment plant or water distribution system applies to the commissioner for certification of the operator in responsible charge of the water treatment plant or water distribution system as provided in this section.

SECTION 11. [EFFECTIVE SEPTEMBER 1, 2000] (a) Notwithstanding the amendment of IC 13-18-11 by this act, a certificate that is issued to a water treatment plant operator or water distribution system operator under IC 13-18-11 before September 1, 2000, must, to remain in effect, be renewed not later than two (2) years after it was issued.

(b) A certificate of a water treatment plant operator or water distribution system operator that is renewed under IC 13-18-11 before September 1, 2000, is renewed for a two (2) year period.

(c) A certificate of a water treatment plant operator or water distribution system operator that is issued after August 31, 2000, is subject to the triennial certificate renewal requirements set forth in IC 13-18-11-6.5, as added by this act.

(d) A certificate of a water treatment plant operator or water distribution system operator that is renewed after August 31, 2000, is renewed for a three (3) year period under the triennial certificate renewal requirements set forth in IC 13-18-11-6.5, as added by this

act.

(e) **This SECTION expires September 1, 2003.**

P.L.133-2000
[S.330. Approved March 17, 2000.]

AN ACT to amend the Indiana Code concerning family law and juvenile law.

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

SECTION 1. IC 31-9-2-0.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 0.5. "Abandoned infant", for purposes of IC 31-34-21-5.6, means:

(1) a child who is less than twelve (12) months of age and whose parent, guardian, or custodian ~~(1)~~ has knowingly or intentionally left the child in:

- (A) an environment that endangers the child's life or health; or
- (B) a hospital or medical facility;

and has no reasonable plan to assume the care, custody, and control of the child; or

(2) a child who is, or who appears to be, not more than thirty (30) days of age and whose parent:

- (A) has knowingly or intentionally left the child with an emergency medical services provider; and ~~(2)~~ has no reasonable plan to assume the care, custody, and control of
- (B) did not express an intent to return for the child.

SECTION 2. IC 31-9-2-43.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 43.5. "Emergency medical services provider" has the meaning set forth in IC 16-41-10-1.**

SECTION 3. IC 31-34-2.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]:

Chapter 2.5. Emergency Custody of Certain Abandoned

Children

Sec. 1. (a) An emergency medical services provider shall, without a court order, take custody of a child who is, or who appears to be, not more than thirty (30) days of age if:

- (1)** the child is voluntarily left with the provider by the child's parent; and
- (2)** the parent does not express an intent to return for the child.

(b) An emergency medical services provider who takes custody of a child under this section shall perform any act necessary to protect the child's physical health or safety.

Sec. 2. (a) Immediately after an emergency medical services provider takes custody of a child under section 1 of this chapter, the provider shall notify the local child protection service that the provider has taken custody of the child.

(b) The local child protection service shall assume the care, control, and custody of the child immediately after receiving notice under subsection (a).

Sec. 3. A child for whom the local child protection service assumes care, control, and custody under section 2 of this chapter shall be treated as a child taken into custody without a court order, except that efforts to locate the child's parents or reunify the child's family are not necessary, if the court makes a finding to that effect under IC 31-34-21-5.6(b)(5).

Sec. 4. Whenever a child is taken into custody without a court order under this chapter, the attorney for the county office of family and children shall, without unnecessary delay, request the juvenile court to:

- (1)** authorize the filing of a petition alleging that the child is a child in need of services;
- (2)** hold an initial hearing under IC 31-34-10 not later than the next business day after the child is taken into custody; and
- (3)** appoint a guardian ad litem for the child.

SECTION 4. IC 31-34-10-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 2. (a) The juvenile court shall hold an initial hearing on each petition.

(b) **Subject to section 2.5 of this chapter**, the juvenile court shall set a time for the initial hearing. A summons shall be issued for the following:

- (1) The child.
- (2) The child's parent, guardian, custodian, or guardian ad litem.
- (3) Any other person necessary for the proceedings.

(c) A copy of the petition must accompany each summons. The clerk shall issue the summons under Rule 4 of the Indiana Rules of Trial Procedure.

SECTION 5. IC 31-34-10-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 2.5. (a) The juvenile court shall hold the initial hearing on a petition arising from an emergency medical services provider's taking custody of an infant under IC 31-34-2.5 on the next business day after the emergency medical services provider takes the infant into custody. If the court is unavailable for a hearing on the next business day, the hearing must be held as soon as the court becomes available. However, the hearing must be held not later than the third business day after the infant is taken into custody.**

(b) The county office of family and children shall notify the emergency medical services provider who has taken emergency custody of an abandoned infant under IC 31-34-2.5 of the initial hearing. The emergency medical services provider has the right to be heard at the initial hearing.

SECTION 6. IC 31-34-21-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 4. (a) At least ~~five (5)~~ **ten (10)** days before the periodic case review, including a case review that is a permanency hearing under section 7 of this chapter, the county office of family and children shall send notice of the review to each of the following:

- (1) The child's parent, guardian, or custodian.
- ~~(2) The child's foster parent.~~
- ~~(3)~~ **(2)** A prospective adoptive parent named in a petition for adoption of the child filed under IC 31-19-2 if:
 - (A) each consent to adoption of the child that is required under IC 31-19-9-1 has been executed in the form and manner required by IC 31-19-9 and filed with the county office of family and children;
 - (B) the court having jurisdiction in the adoption case has determined under any applicable provision of IC 31-19-9 that

consent to adoption is not required from a parent, guardian, or custodian; or

(C) a petition to terminate the parent-child relationship between the child and any parent who has not executed a written consent to adoption under IC 31-19-9-2 has been filed under IC 31-35 and is pending.

~~(4)~~ (3) Any other person who:

(A) the county office of family and children has knowledge is currently providing care for the child; and

(B) is not required to be licensed under IC 12-17.2 or IC 12-17.4 to provide care for the child.

~~(5)~~ (4) Any other suitable relative or person who the county office knows has had a significant or caretaking relationship to the child.

(5) Any emergency medical services provider who has taken custody of an abandoned infant under IC 31-34-2.5.

(b) At least ten (10) days before the periodic case review, including a case review that is a permanency hearing under section 7 of this chapter, the county office of family and children shall provide notice of the review to the child's foster parent by:

(1) certified mail; or

(2) face to face contact by the county office of family and children caseworker.

(c) The court shall provide to a person described in subsection (a) or (b) an opportunity to be heard and to make any recommendations to the court in a periodic case review, including a permanency hearing under section 7 of this chapter. The right to be heard and to make recommendations under this subsection includes the right of a person described in subsection (a) or (b) to submit a written statement to the court that, if served upon all parties to the child in need of services proceeding and the persons described in subsections (a) and (b), may be made a part of the court record.

~~(d)~~ (d) This section does not exempt the county office of family and children from sending a notice of the review to each party to the child in need of services proceeding.

(e) The court shall continue the review if, at the time of the review, the county office of family and children has not provided the court with signed verification from the child's foster parent, as obtained through subsection (b), that the foster parent has been

notified of the review at least five (5) business days before the review. However, the court is not required to continue the review if the child's foster parent appears for the review.

SECTION 7. IC 31-34-21-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 4.5. (a) Except as provided in subsection (b), a foster parent may petition the court to request intervention as a party to a proceeding described in this chapter.**

(b) A foster parent who has been:

(1) the subject of a substantiated report of child abuse or neglect; or

(2) convicted of a felony listed in IC 12-17.4-4-11;

may not petition the court to intervene under this section.

(c) A court may grant a petition filed under this section if the court determines that intervention of the petitioner is in the best interests of the child.

SECTION 8. IC 31-34-21-5.6, AS AMENDED BY P.L.197-1999, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 5.6. (a) A court may make a finding described in this section at any phase of a child in need of services proceeding.**

(b) Reasonable efforts to reunify a child with the child's parent, guardian, or custodian or preserve a child's family as described in section 5.5 of this chapter are not required if the court finds any of the following:

(1) A parent, guardian, or custodian of a child who is a child in need of services has been convicted of:

(A) an offense described in IC 31-35-3-4(1)(B) or IC 31-35-3-4(1)(D) through ~~IC 31-35-3-4(J)~~

IC 31-35-3-4(1)(J) against a victim who is:

(i) a child described in IC 31-35-3-4(2); or

(ii) a parent of the child; or

(B) a comparable offense as described in clause (A) in any other state, territory, or country by a court of competent jurisdiction.

(2) A parent, guardian, or custodian of a child who is a child in need of services:

(A) has been convicted of:

(i) the murder (IC 35-42-1-1) or voluntary manslaughter

- (IC 35-42-1-3) of a victim who is a child described in IC 31-35-3-4(2)(B) or a parent of the child; or
- (ii) a comparable offense described in item (i) in any other state, territory, or country; or
- (B) has been convicted of:
 - (i) aiding, inducing, or causing another person;
 - (ii) attempting; or
 - (iii) conspiring with another person;to commit an offense described in clause (A).
- (3) A parent, guardian, or custodian of a child who is a child in need of services has been convicted of:
 - (A) battery (IC 35-42-2-1 (a)(4)) as a Class B felony;
 - (B) battery (IC 35-42-2-1(a)(3)) as a Class C felony;
 - (C) aggravated battery (IC 35-42-2-1.5);
 - (D) criminal recklessness (IC 35-42-2-2(c)) as a Class C felony;
 - (E) neglect of a dependent (IC 35-46-1-4) as a Class B felony;or
 - (F) a comparable offense described in clauses (A) through (E) in another state, territory, or country;against a child described in IC 31-35-3-4(2)(B).
- (4) The parental rights of a parent with respect to a biological or adoptive sibling of a child who is a child in need of services have been involuntarily terminated by a court under:
 - (A) IC 31-35-2 (involuntary termination involving a delinquent child or a child in need of services);
 - (B) IC 31-35-3 (involuntary termination involving an individual convicted of a criminal offense); or
 - (C) any comparable law described in clause (A) or (B) in any other state, territory, or country.
- (5) The child is an abandoned infant, provided that the court:
 - (A) has appointed a guardian ad litem or court appointed special advocate for the child; and
 - (B) after receiving a written report and recommendation from the guardian ad litem or court appointed special advocate, and after a hearing, finds that reasonable efforts to locate the child's parents or reunify the child's family would not be in the best interests of the child. **However, there is a rebuttable**

presumption that it is not in the best interests of the child to locate the child's parent or reunify the child's family if the child was left with an emergency medical services provider who took custody of the child under IC 31-34-2.5.

SECTION 9. IC 31-35-2-6.5, AS AMENDED BY P.L.200-1999, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 6.5. (a) This section applies to hearings under this chapter relating to a child in need of services.

(b) At least ~~five (5)~~ **ten (10)** days before a hearing on a petition or motion under this chapter:

- (1) the person or entity who filed the petition to terminate the parent-child relationship under section 4 of this chapter; or
- (2) the person or entity who filed a motion to dismiss the petition to terminate the parent-child relationship under section 4.5(d) of this chapter;

shall send notice of the review to the persons listed in ~~subsection~~ **subsections (c) and (d).**

(c) The following persons shall receive notice of a hearing on a petition or motion filed under this chapter:

- (1) The child's parent, guardian, or custodian.
- ~~(2) The child's foster parent.~~
- ~~(3)~~ **(2)** A prospective adoptive parent named in a petition for adoption of the child filed under IC 31-19-2 if:
 - (A) each consent to adoption of the child that is required under IC 31-19-9-1 has been executed in the form and manner required by IC 31-19-9 and filed with the county office of family and children;
 - (B) the court having jurisdiction in the adoption case has determined under an applicable provision of IC 31-19-9 that consent to adoption is not required from a parent, guardian, or custodian; or
 - (C) a petition to terminate the parent-child relationship between the child and any parent who has not executed a written consent to adoption under IC 31-19-9-2, has been filed under IC 31-35 and is pending.

~~(4)~~ **(3)** Any other person who:

- (A) the county office of family and children has knowledge is currently providing care for the child; and

(B) is not required to be licensed under IC 12-17.2 or IC 12-17.4 to provide care for the child.

~~(5)~~ (4) Any other suitable relative or person who the county office of family and children knows has had a significant or caretaking relationship to the child.

(5) Any emergency medical services provider who has taken custody of an abandoned infant under IC 31-34-2.5.

(6) Any other party to the child in need of services proceeding.

(d) At least ten (10) days before a hearing on a petition or motion under this chapter, the county office of family and children shall provide notice of the hearing to the child's foster parent by:

(1) certified mail; or

(2) face to face contact by the county office of family and children caseworker.

(e) The court shall provide to a person described in subsection (c) or (d) an opportunity to be heard and make recommendations to the court at the hearing. **The right to be heard and to make recommendations under this subsection includes the right of a person described in subsection (c) or (d) to submit a written statement to the court that, if served upon all parties to the child in need of services proceeding and the persons described in subsections (c) and (d), may be made a part of the court record.**

~~(e)~~ **(f) The court shall continue the hearing if, at the time of the hearing, the county office of family and children has not provided the court with signed verification from the foster parent, as obtained through subsection (d), that the foster parent has been notified of the hearing at least five (5) business days before the hearing. However, the court is not required to continue the hearing if the child's foster parent appears for the hearing.**

(g) A person described in subsection (c)(2) through (c)(5) or **subsection (d)** does not become a party to a proceeding under this chapter as the result of the person's right to notice and the opportunity to be heard under this section.

SECTION 10. IC 35-46-1-4, AS AMENDED BY P.L.197-1999, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 4. (a) A person having the care of a dependent, whether assumed voluntarily or because of a legal obligation, who knowingly or intentionally:

(1) places the dependent in a situation that endangers the dependent's life or health;
 (2) abandons or cruelly confines the dependent;
 (3) deprives the dependent of necessary support; or
 (4) deprives the dependent of education as required by law;
 commits neglect of a dependent, a Class D felony.

(b) However, the offense is:

- (1) a Class C felony if it is committed under subsection (a)(1), (a)(2), or (a)(3) and results in bodily injury;
- (2) a Class B felony if it is committed under subsection (a)(1), (a)(2), or (a)(3) and results in serious bodily injury; and
- (3) a Class C felony if it is committed under subsection (a)(2) and consists of cruel or unusual confinement or abandonment.

(c) It is a defense **to a prosecution based on an alleged act under this section** that:

(1) the accused person **left a dependent child who was, at the time the alleged act occurred, not more than thirty (30) days of age with an emergency medical provider who took custody of the child under IC 31-34-2.5 when:**

(A) the prosecution is based solely on the alleged act of leaving the child with the emergency medical services provider; and

(B) the alleged act did not result in bodily injury or serious bodily injury to the child; or

(2) **the accused person**, in the legitimate practice of his religious belief, provided treatment by spiritual means through prayer, in lieu of medical care, to his dependent.

(~~c~~) (d) Except for property transferred or received:

(1) under a court order made in connection with a proceeding under IC 31-15, IC 31-16, IC 31-17, or IC 31-35 (or IC 31-1-11.5 or IC 31-6-5 before their repeal); or

(2) under IC 35-46-1-9(b);

a person who transfers or receives any property in consideration for the termination of the care, custody, or control of a person's dependent child commits child selling, a Class D felony.

P.L.134-2000

[S.351. Approved March 17, 2000.]

AN ACT to amend the Indiana Code concerning investment of public funds.

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

SECTION 1. IC 5-13-9-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 3. (a) As used in this section, "repurchase agreement" means an agreement:

- (1) involving the purchase and guaranteed resale of securities between two (2) parties; and
- (2) that may be entered into for a fixed term or arranged on an open or a continuing basis as a continuing contract that:
 - (A) operates like a series of overnight repurchase agreements;
 - (B) is renewed each day with the repurchase rate and the amount of funds invested determined daily; and
 - (C) for purposes of this article, is considered to have a stated final maturity of one (1) day.

(b) Each officer designated in section 1 of this chapter may enter into, with any funds that are held by the officer and available for investment, repurchase agreements: ~~(including standing repurchase agreements; commonly known as sweep accounts):~~

- (1) with depositories designated by the state board of finance as depositories for state deposits under IC 5-13-9.5; and
- (2) involving the political subdivision's purchase and guaranteed resale of any interest-bearing obligations:

- (A) issued; or
- (B) fully insured or guaranteed;

by the United States, a United States government agency, an instrumentality of the United States, or a federal government sponsored enterprise.

The depository shall determine daily that the amount of money in this type of agreement must be fully collateralized by interest-bearing obligations as determined by their current market value. The collateral

for this type of agreement is not subject to the provisions of section 2(c) of this chapter.

(c) If the market value of the obligations being held as collateral falls below the level required under subsection (b) or a higher level established by agreement, the depository shall deliver additional securities to the political subdivision to make the agreement collateralized to the applicable level. The collateral involved in a repurchase agreement entered into under this section is not subject to the maturity limitation provided in section 5.6 of this chapter.

(d) A political subdivision may invest in repurchase agreements without entering into a contract under IC 5-13-11 for an investment cash management system.

SECTION 2. IC 5-13-10.5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 9. (a) A public officer of the state may invest any funds held by the officer and available for investment into agreements, commonly known as repurchase or resale agreements (~~including standing repurchase or resale agreements; commonly known as sweep accounts~~), with depositories designated by the state board of finance as depositories for state deposits, involving the purchase and guaranteed resale of any interest-bearing obligations that are:

(1) issued; or

(2) fully insured or guaranteed;

by the United States, any United States government agency, any instrumentality of the United States government, or any federal government sponsored enterprise. The amount of money in this type of agreement must be fully collateralized by interest-bearing obligations as determined by the current market value computed on the day on which a transaction is effective.

(b) The collateral for the type of agreement described in subsection (a) is not subject to the maturity limitation in section 3 of this chapter.

P.L.135-2000

[S.352. Approved March 17, 2000.]

AN ACT to amend the Indiana Code concerning education.

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

SECTION 1. IC 20-6.1-3-10.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 10.1. (a) The board may not grant an initial standard license to an individual unless the individual has demonstrated proficiency in the following areas on a written examination or through other procedures prescribed by the board:

- (1) Basic reading, writing, and mathematics.
- (2) Pedagogy.
- (3) Knowledge of the areas in which the individual is required to have a license to teach.

(4) If the individual is seeking to be licensed as an elementary school teacher, comprehensive reading instruction skills, including:

- (A) phonemic awareness; and**
- (B) phonics instruction.**

(b) An individual's license examination score may not be disclosed by the board without the individual's consent unless specifically required by state or federal statute or court order.

(c) The board shall adopt rules under IC 4-22-2 to do the following:

- (1) Adopt, validate, and implement the examination or other procedures required by subsection (a).
- (2) Establish examination scores indicating proficiency.
- (3) Otherwise carry out the purposes of this section.

(d) The board shall adopt rules under IC 4-22-2 establishing the conditions under which the requirements of this section may be waived for individuals holding valid teachers licenses issued by another state.

(e) Subsection (a) does not apply to individuals holding Indiana limited, reciprocal, or standard teaching licenses on June 30, 1985.

(f) If the board is notified by the department of state revenue that a

person is on the most recent tax warrant list, the board may not grant an initial standard license to the person until:

- (1) the person provides the board with a statement from the department of state revenue indicating that the person's delinquent tax liability has been satisfied; or
- (2) the board receives a notice from the commissioner of the department of state revenue under IC 6-8.1-8-2(k).

P.L.136-2000

[S.353. Approved March 17, 2000.]

AN ACT to amend the Indiana Code concerning alcoholic beverages.

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

SECTION 1. IC 7.1-3-1-14, AS AMENDED BY P.L.205-1999, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) It is lawful for an appropriate permittee, unless otherwise specifically provided in this title, to sell alcoholic beverages each day Monday through Saturday from 7 a.m., prevailing local time, until 3 a.m., prevailing local time, the following day. Sales shall cease wholly on Sunday at 3 a.m., prevailing local time, and not be resumed until the following Monday at 7 a.m., prevailing local time.

(b) It is lawful for the holder of a supplemental retailer's permit which is not specified in subsection (c) to sell the appropriate alcoholic beverages on Sunday from noon, prevailing local time, until 12:30 a.m., prevailing local time, the following day.

(c) It is lawful for the holder of a supplemental retailer's permit to sell the appropriate alcoholic beverages on Sunday from 11:00 a.m., prevailing local time, until 12:30 a.m., prevailing local time, the following day if the holder of the permit meets the following criteria:

- (1) the holder of the permit is a hotel; or
- (2) the holder of the permit meets the requirements of 905

IAC 1-41-2(a).

(d) Notwithstanding subsections (b) and (c), if December 31 (New Year's Eve) is on a Sunday, it is lawful for the holder of a supplemental retailer's permit to sell the appropriate alcoholic beverages on Sunday, December 31 from the time provided in subsection (b) or (c) until 3 a.m. the following day.

(e) It is lawful for the holder of a permit under this article to sell alcoholic beverages at athletic or sports events held on Sunday upon premises **that:**

- (1) **are** described in section 25(a) of this chapter;
- (2) **are a facility** used in connection with the operation of a paved ~~oval~~ track more than two (2) miles in ~~circumference~~ **length** that is used primarily in the sport of auto racing; or
- (3) **are** being used for a professional or an amateur tournament; beginning one (1) hour before the scheduled starting time of the event or, if the scheduled starting time of the event is 1 p.m. or later, beginning at noon.

(f) It is lawful for the holder of a valid beer, wine, or liquor wholesaler's permit to sell to the holder of a valid retailer's or dealer's permit at any time.

SECTION 2. IC 7.1-3-1-25, AS AMENDED BY P.L.205-1999, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 25. (a) A city or county listed in this subsection that by itself or in combination with any other municipal body acquires by ownership or by lease any stadium, exhibition hall, auditorium, theater, convention center, or civic center may permit the retail sale of alcoholic beverages upon the premises if the governing board of the facility first applies for and secures the necessary permits as required by this title. The cities and counties to which this subsection applies are as follows:

- (1) A consolidated city or its county.
- (2) A city of the second class.
- (3) A county having a population of more than one hundred thirty thousand six hundred (130,600) but less than two hundred thousand (200,000).
- (4) A county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000).

(5) A city having a population of less than ten thousand (10,000) that is located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

(6) A county having a population of more than one hundred eight thousand nine hundred fifty (108,950) but less than one hundred twelve thousand (112,000).

(7) A county having a population of more than one hundred eight thousand (108,000) but less than one hundred eight thousand nine hundred fifty (108,950).

(b) A county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) or a township located in such a county that has established a public park with a golf course within its jurisdiction under IC 36-10-3 or IC 36-10-7 may be issued a permit for the retail sale of alcoholic beverages on the premises of any community center within the park, including a clubhouse, social center, or pavilion.

(c) A township that:

(1) is located in a county having a population of more than one hundred thousand (100,000) but less than one hundred seven thousand (107,000); and

(2) acquires ownership of a golf course;

may permit the retail sale of alcoholic beverages upon the premises of the golf course, if the governing board of the golf course first applies for and secures the necessary permits required by this title.

(d) A township:

(1) having a population of more than thirty thousand (30,000) and less than seventy-five thousand (75,000); and

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

may be issued a permit for the retail sale of alcoholic beverages on the premises of any community center or social center that is located within the township and operated by the township.

(e) A city that:

(1) has a population of:

(A) more than fifty-eight thousand (58,000) but less than sixty thousand (60,000); or

(B) more than forty thousand (40,000) but less than forty-three thousand (43,000); and

(2) owns a golf course;

may permit the retail sale of alcoholic beverages upon the premises of the golf course if the governing board of the golf course first applies for and secures the necessary permits required by this title.

(f) A city that:

(1) has a population of more than thirty-three thousand eight hundred fifty (33,850) but less than thirty-five thousand (35,000); and

(2) owns or leases a marina;

may permit the retail sale of alcoholic beverages upon the premises of the marina, if the governing board of the marina first applies for and secures the necessary permits required by this title. **The permit may include the carryout sale of alcoholic beverages in accordance with IC 7.1-3-4-6(c), IC 7.1-3-9-9(c), IC 7.1-3-14-4(c), and 905 IAC 1-29 but may not include at-home delivery of alcoholic beverages.**

(g) A city listed in this subsection that owns a marina may be issued a permit for the retail sale of alcoholic beverages on the premises of the marina. **The permit may include the carryout sale of alcoholic beverages in accordance with IC 7.1-3-4-6(c), IC 7.1-3-9-9(c), IC 7.1-3-14-4(c), and 905 IAC 1-29 but may not include at-home delivery of alcoholic beverages.** However, the city must apply for and secure the necessary permits that this title requires. This subsection applies to the following cities:

(1) A city having a population of more than one hundred ten thousand (110,000) but less than one hundred twenty thousand (120,000).

(2) A city having a population of more than seventy-five thousand (75,000) but less than ninety thousand (90,000).

(3) A city having a population of more than thirty-three thousand (33,000) but less than thirty-three thousand eight hundred fifty (33,850).

(4) A city having a population of more than twenty-seven thousand (27,000) but less than thirty thousand (30,000).

(5) A city having a population of more than twenty-one thousand eight hundred thirty (21,830) but less than twenty-three thousand (23,000).

(h) Notwithstanding subsection (a), the commission may issue a civic center permit to a person that:

- (1) by the person's self or in combination with another person is the proprietor, as owner or lessee, of an entertainment complex; or
- (2) has an agreement with a person described in subdivision (1) to act as a concessionaire for the entertainment complex for the full period for which the permit is to be issued.

SECTION 3. IC 7.1-3-20-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 24. (a) This section does not affect the requirements necessary to obtain a permit to sell alcoholic beverages on the premises of a licensed premises.

(b) The commission may designate a licensed permit premises used exclusively for catered events as a catering hall.

(c) Catering halls designated under this section are not required to be open to the general public. However, if a designated catering hall desires to host an event that is open to the general public, the catering hall shall comply with the notice requirement under IC 7.1-3-9.5-2. **A catering hall with a special three-way catering hall permit under subsection (d) may not be open to the general public.**

(d) The commission may issue a special three-way catering hall permit to an applicant to sell alcoholic beverages for on premises consumption on a premises that:

- (1) is used only for private catered events as a catering hall; and**
- (2) has accommodations for at least two hundred fifty (250) individuals.**

An applicant who is issued a permit under this subsection is not required to obtain a restaurant permit.

(e) A permit authorized by subsection (d) may be issued without regard to the quota provisions of IC 7.1-3-22.

(f) The commission shall adopt rules under IC 4-22-2 to implement this section.

SECTION 4. IC 7.1-5-8-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. ~~Serving of Setups Prohibited:~~ **(a) It is unlawful for a person who owns or operates a private or public restaurant or place of public or private entertainment to permit another person to come into his the establishment with an**

alcoholic beverage for sale or gift, or for consumption in the establishment by that person or another, or to serve a setup to a person who comes into ~~his~~ **the** establishment. However, the provisions of this section shall not apply to **the following**:

(1) A private room hired by a guest of a bona fide club or hotel that holds a retail permit.

(2) A facility that is used in connection with the operation of a paved track of more than two (2) miles in length that is used primarily in the sport of auto racing.

(b) An establishment operated in violation of this section ~~hereby~~ is declared to be a public nuisance and subject to abatement as other public nuisances are abated under the provisions of this title.

SECTION 5. IC 7.1-5-8-5, AS AMENDED BY P.L.177-1999, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) This section does not apply to a person who, on or about a licensed premises, carries, conveys, or consumes beer or wine:

(1) described in IC 7.1-1-2-3(a)(4); and

(2) not sold or offered for sale.

(b) This section does not apply to a person at a facility that is used in connection with the operation of a paved track more than two (2) miles in length that is used primarily in the sport of auto racing.

(c) It is a Class C misdemeanor for a person, for ~~his~~ **the person's** own use, to knowingly carry on, convey to, or consume on or about the licensed premises of a permittee, an alcoholic beverage that was not then and there purchased from that permittee.

SECTION 6. **An emergency is declared for this act.**

P.L.137-2000

[S.355. Approved March 17, 2000.]

AN ACT to amend the Indiana Code concerning transportation.

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

SECTION 1. IC 8-22-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 4. The board shall choose, annually, at its first regular meeting in January, one (1) of its members president, and another of its members vice president to perform the duties of the president during the absence or disability of the president. The eligible entity shall provide a suitable office for the board in the entity, or, at the option of the board, at the airport, at the expense of the department of aviation, where its maps, plans, documents, records, and accounts shall be kept, subject to public inspection at all reasonable times. Before February 2 each year the board shall make a report to the executive of its proceedings with a full statement of its receipts and disbursements for the preceding year, including a report of the acquisition of air navigation facilities and of other property that has come under the control of the board, improvements made, general character of the work of the board, and progress of aviation and air commerce under its control. Money received by the board shall be paid into the entity's treasury and credited to the department of aviation, and all expenditures relating to the property and business under the control of the department, except as otherwise provided, may be provided for by special levy of taxes under section 7 of this chapter, and shall be paid from the entity's treasury when ordered by the board. A majority of the members constitutes a quorum, and an action of the board must be taken by a majority of the members at a regular or duly called special meeting. In case of a tie vote on any question, the executive shall decide. The board shall fix a time for holding regular meetings. **Regular or special meetings shall be held at the office of the board or at another public place in any county where the board owns or operates an airport.** Special meetings of the board may be called at any time by its president, or by any two (2) of its members, upon a

written request to the secretary. Whenever in the opinion of the president or of any two (2) members, a special meeting is necessary, he or they shall cause the secretary to notify the members by mailing written notice of the time of the meeting, at least one (1) day before the meeting. A member may waive notice in writing and the presence of a member at a special meeting is considered a waiver of notice.

SECTION 2. IC 8-22-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 9. (a) The board shall elect, at its first regular meeting to be conducted on the first July 1 or January 1 after appointment of the board members, and annually thereafter, one (1) of its members president, and another of its members vice president, who performs the duties of the president during the absence of or disability of the president. The board shall keep a suitable office at the airport where its maps, plans, documents, records, and accounts shall be kept, subject to public inspection at all reasonable times.

(b) The board shall provide by rule for regular meetings to be held not less than at monthly intervals throughout the year.

(c) The board shall convene in a special meeting when one is called. The president or a majority of the members of the board may call a special meeting. The board shall establish by rule a procedure for calling special meetings.

(d) **Regular or special** meetings shall be held at the office of the board ~~except that public hearings and similar meetings for which the office facilities are inadequate may be held or~~ at another public place ~~in the district that is designated by any county where~~ the board **owns or operates an airport**. The board may adjourn any regular or special meeting to a specific day designated at the time of adjournment, and that meeting is a continuation of the meeting so adjourned. This subsection does not apply to an authority that was established under IC 19-6-3 (before its repeal on April 1, 1980).

(e) A majority of the members of the board constitutes a quorum for a meeting. The board may act officially by an affirmative vote of a majority of those present at the meeting at which the action is taken.

(f) The board shall keep a written record of its proceedings, which shall be available for public inspection in the office of the board. The board shall record the aye and nay tally of the vote for each ordinance or resolution.

(g) The board shall adopt a system of rules of procedure under

which its meetings are to be held. The board may suspend the rules of procedure by unanimous vote of the members of the board who are present at the meeting. The board may not suspend the rules of procedure beyond the duration of the meeting at which the suspension of rules occurs.

(h) The board may supervise its internal affairs as do local legislative and administrative bodies.

P.L.138-2000

[S.372. Approved March 17, 2000.]

AN ACT to amend the Indiana Code concerning environmental law.

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

SECTION 1. IC 13-11-2-109.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 109.5. "Industrial waste", for purposes of IC 13-20, means a solid waste from a nonresidential source that is not:**

- (1) a hazardous waste (as defined in section 99 of this chapter);**
- (2) a municipal waste (as defined in section 133 of this chapter);**
- (3) a construction\demolition waste (as defined in section 41 of this chapter); or**
- (4) an infectious waste as defined in IC 16-41-16-4.**

SECTION 2. IC 13-11-2-133 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 133. (a) "Municipal waste", for purposes of:**

- (1) IC 13-20-4;**
- (2) IC 13-20-6;**
- (3) IC 13-20-21;**
- (4) IC 13-20-23;**
- (5) IC 13-22-1 through IC 13-22-8; and**

(6) IC 13-22-13 through IC 13-22-14; means any garbage, refuse, industrial lunchroom or office waste, and other **similar** material resulting from the operation of residential, municipal, commercial, or institutional establishments and community activities.

(b) The term does not include the following:

(1) ~~Special Industrial waste (as defined in 329 IAC 2-21-1, as in effect on January 1, 1990)~~ **section 109.5 of this chapter**).

(2) Hazardous waste regulated under:

(A) IC 13-22-1 through IC 13-22-8 and IC 13-22-13 through IC 13-22-14; or

(B) the federal Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), as in effect on January 1, 1990.

(3) Infectious waste (as defined in IC 16-41-16-4).

(4) Wastes that result from the combustion of coal and that are referred to in IC 13-19-3-3.

(5) Materials that are being transported to a facility for reprocessing or reuse.

(c) As used in subsection (b)(5), "reprocessing or reuse" does not include either of the following:

(1) Incineration.

(2) Placement in a landfill.

SECTION 3. IC 13-11-2-208 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 208. "Solid waste landfill", for purposes of **IC 13-20-7.5**, IC 13-20-9 and IC 13-22-9, means a solid waste disposal facility at which solid waste is deposited on or beneath the surface of the ground as an intended place of final location.

SECTION 4. IC 13-11-2-253 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 253. "Waste-to-energy facility", for purposes of **IC 13-20** and IC 13-21, means a facility at which solid waste is converted into energy or another useful product by incineration.

SECTION 5. IC 13-15-4-1, AS AMENDED BY P.L.224-1999, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1. Except as provided in sections 2, 3, and 6 of this chapter, the commissioner shall approve or deny an application filed with the department after July 1, 1995, within the following

number of days:

- (1) Three hundred sixty-five (365) days for an application concerning the following:
 - (A) A new hazardous waste or solid waste landfill.
 - (B) A new hazardous waste or solid waste incinerator.
 - (C) A major modification of a solid waste landfill.
 - (D) A major modification of a solid waste incinerator.
 - (E) A new hazardous waste treatment or storage facility.
 - (F) A new Part B permit issued under 40 CFR 270 et seq. for an existing hazardous waste treatment or storage facility.
 - (G) A Class 3 modification under 40 CFR 270.42 to a hazardous waste landfill.
- (2) Two hundred seventy (270) days for an application concerning the following:
 - (A) A Class 3 modification under 40 CFR 270.42 of a hazardous waste treatment or storage facility.
 - (B) A major new National Pollutant Discharge Elimination System permit.
- (3) One hundred eighty (180) days for an application concerning the following:
 - (A) A new solid waste processing or recycling facility.
 - (B) A minor new National Pollutant Discharge Elimination System individual permit.
 - (C) A permit concerning the land application of wastewater.
- (4) One hundred fifty (150) days for an application concerning a minor new National Pollutant Discharge Elimination System general permit.
- (5) One hundred twenty (120) days for an application concerning a Class 2 modification under 40 CFR 270.42 to a hazardous waste facility.
- (6) Ninety (90) days for an application concerning the following:
 - (A) A minor modification to a solid waste landfill or incinerator permit.
 - (B) A wastewater facility or water facility construction permit.
- (7) The amount of time provided for in rules adopted by the air pollution control board for an application concerning the following:
 - (A) An air pollution construction permit that is subject to 326

IAC 2-2 and 326 IAC 2-3.

(B) An air pollution facility construction permit (other than as defined in 326 IAC 2-2).

(C) Registration of an air pollution facility.

- (8) Sixty (60) days for an application concerning the following:
- (A) A Class 1 modification under 40 CFR 270.42 requiring prior written approval, to a hazardous waste:
 - (i) landfill;
 - (ii) incinerator;
 - (iii) treatment facility; or
 - (iv) storage facility.

(B) Any other permit not specifically described in this section for which the application fee exceeds one hundred dollars (\$100) and for which a time frame has not been established under section 3 of this chapter.

~~(9) Fifty (50) days for an application concerning certification of a special waste.~~

SECTION 6. IC 13-20-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1. This chapter does not apply to an individual, a corporation, a partnership, or a business association that in its regular business activity:

- (1) produces solid or ~~special~~ **industrial** waste as a byproduct of or incidental to its regular business activity; and
- (2) disposes of the solid or ~~special~~ **industrial** waste at a site that meets the following conditions that is:
 - (A) owned by the individual, corporation, partnership, or business association; and
 - (B) limited to use by that individual, corporation, partnership, or business association for the disposal of solid or ~~special~~ **industrial** waste produced by:
 - (i) that individual, corporation, partnership, or business association; or
 - (ii) a subsidiary of an entity referred to in item (i).

SECTION 7. IC 13-20-4-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 8. A vehicle may only be used to collect and transport the following:

- (1) Municipal waste.
- (2) ~~Special Industrial~~ **Special Industrial** waste. ~~(as defined in 329 IAC 2-21-1, as in~~

effect January 1, 1990):

- (3) Hazardous waste regulated under:
 - (A) IC 13-22; or
 - (B) the federal Solid Waste Disposal Act (42 U.S.C. 6901 et seq., as in effect January 1, 1990).
- (4) Waste described under IC 13-19-3-3 that results from the combustion of coal.
- (5) Material that is being transported to a facility, except an incinerator or a landfill, for reprocessing or reuse.
- (6) Wood, concrete, brick, and other construction and demolition materials.
- (7) Dirt, sand, gravel, asphalt, salt, and other highway maintenance material.
- (8) Coal, gypsum, slag, scrap metal, and other bulk industrial commodities.
- (9) Infectious waste (as defined in IC 16-41-16-4).

SECTION 8. IC 13-20-7.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]:

Chapter 7.5. Industrial Waste

Sec. 1. (a) Except as provided in subsections (b) and (c), industrial waste may be disposed of only at a solid waste landfill cell or unit that meets or exceeds Subtitle D design standards of the federal Resource Conservation and Recovery Act as provided in 40 CFR Part 258 or in a waste-to-energy facility in accordance with the facility operating permit.

(b) The department may issue a permit to a solid waste landfill that does not meet or exceed the standards described in subsection (a).

(c) A generator of industrial waste that generates not more than two hundred twenty (220) pounds of industrial waste per month:

- (1) is not subject to the requirements of sections 4, 5, and 6 of this chapter; and**
- (2) may dispose of the industrial waste in a state permitted landfill or state permitted waste-to-energy facility.**

Sec. 2. A generator of industrial waste must perform a waste determination in accordance with 40 CFR 240 through 40 CFR 299 and 40 CFR 761.

Sec. 3. A solid waste landfill may not accept hazardous waste unless the solid waste landfill is authorized to accept hazardous waste under IC 13-22.

Sec. 4. Before a generator first disposes of industrial waste, the person must provide the solid waste landfill with notification from the generator that:

- (1) states that the industrial waste is not hazardous waste as determined under section 2 of this chapter; and**
- (2) identifies any special handling requirements.**

Sec. 5. Disposal of an industrial waste that was certified as a special waste under IC 13-20-7 (before its repeal on July 1, 2000) at a solid waste landfill that does not meet or exceed the standards described in section 1(a) of this chapter may continue until the earlier of:

- (1) the date of expiration of the certification under IC 13-20-7; or**
- (2) July 1, 2001.**

Sec. 6. A transfer station may not accept industrial waste unless the transfer station is permitted by the department to accept industrial waste.

SECTION 9. IC 13-20-21-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 6. For solid waste, the disposal fees are as follows:

	Fee
Municipal Waste per ton	\$ 0.10
Special Industrial Waste per ton	\$ 0.10
Municipal Waste Disposed of at an Incinerator per ton	\$ 0.05
Construction\ Demolition Waste per ton	\$ 0.10

SECTION 10. [EFFECTIVE JULY 1, 2000] **(a) The solid waste management board shall adopt rules under IC 4-22-2 before July 1, 2001, to reflect the elimination of references to special waste and the addition of references to industrial waste in this act.**

(b) This SECTION expires January 1, 2002.

SECTION 11. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2000]: IC 13-11-2-215; IC 13-11-2-215.1; IC 13-20-7; IC 13-20-21-5.

P.L.139-2000

[S.411. Approved March 17, 2000.]

AN ACT to amend the Indiana Code concerning human services.

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

SECTION 1. IC 12-19-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1. As used in this chapter, "child services" means **the following:**

(1) Child welfare services specifically provided for children who are:

(+) (A) adjudicated to be:

(A) (i) children in need of services; or

(B) (ii) delinquent children; or

(-) (B) recipients of or are eligible for:

(A) (i) informal adjustments;

(B) (ii) service referral agreements; and

(C) (iii) adoption assistance;

including the costs of using an institution or facility in Indiana for providing educational services as described in either IC 20-8.1-3-36 (if applicable) or IC 20-8.1-6.1-8 (if applicable), all services required to be paid by a county under IC 31-40-1-2, and all costs required to be paid by a county under IC 20-8.1-6.1-7.

(2) Assistance awarded by a county to a destitute child under IC 12-17-1.

(3) Child welfare services as described in IC 12-17-3.

SECTION 2. IC 12-19-7-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1.5. (a) **The division of family and children may transfer any of the following to a county family and children's fund:**

(1) Money transferred under P.L.273-1999, SECTION 126, to the division from a county welfare fund on or after July 1, 2000, without regard to the county from which the money was

transferred.

(2) Money appropriated to the division for any of the following:

(A) Assistance awarded by a county to a destitute child under IC 12-17-1.

(B) Child welfare services as described in IC 12-17-3.

(C) Any other services for which the expenses were paid from a county welfare fund before January 1, 2000.

(b) Money transferred under subsection (a)(1) or (a)(2) must be used for purposes described in subsection (a)(2).

SECTION 3. IC 31-16-10-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1. Upon entering an order under IC 31-16-6-1 or at any subsequent time, the court may order, upon the proper showing that a person other than the person awarded custody under IC 31-17-2-8 (or IC 31-1-11.5-21 before its repeal) should receive payments, that the clerk of the circuit court or the person obligated to make the payments transmit those payments to any third person agreed upon by the parties and approved by the court or appointed by the court, including the following:

- (1) A trustee.
- (2) The guardian of the estate of the child.
- (3) Any third person.
- (4) The county office of family and children or any appropriate social service agency.
- (5) The state agency administering Title IV-D of the federal Social Security Act (42 U.S.C. 651 through 669).

(6) The township trustee.

SECTION 4. IC 31-16-17-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1. Any individual:

- (1) whose father or mother provided the individual with necessary food, shelter, clothing, medical attention, and education until the individual reached sixteen (16) years of age; and
- (2) who is financially able due to the individual's own property, income, or earnings;

shall contribute to the support of the individual's parents if either parent is financially unable to furnish the parent's own necessary food, clothing, shelter, and medical attention. **The individual shall also**

provide financial support for the parent's burial if the parent's burial is provided under IC 12-20-16-12.

P.L.140-2000

[S.431. Approved March 17, 2000.]

AN ACT to amend the Indiana Code concerning environmental law and to make an appropriation.

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

SECTION 1. IC 13-11-2-31.3 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 31.3. "Combined sewage", for purposes of sections 31.4 and 31.6 of this chapter and IC 13-18, refers to a combination of wastewater (including domestic, commercial, or industrial wastewater) and storm water transported in a combined sewer or combined sewer system.**

SECTION 2. IC 13-11-2-31.4 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 31.4. "Combined sewer", for purposes of sections 31.3, 31.6, and 120.5 of this chapter and IC 13-18, means a sewer that is designed, constructed, and used to receive and transport combined sewage.**

SECTION 3. IC 13-11-2-31.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 31.5. "Combined sewer operational plan", for purposes of IC 13-18, means a plan that contains the minimum technology controls applicable to, and requirements for operation and maintenance of, a combined sewer system:**

- (1) before;**
 - (2) during; and**
 - (3) upon the completion of;**
- the implementation of a long term control plan.**

SECTION 4. IC 13-11-2-31.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 31.6. "Combined sewer system", for purposes of sections 31.3, 31.5, 43.5, 85.7, and 120.5 of this chapter and IC 13-18, means a system of combined sewers that:**

- (1) is designed, constructed, and used to receive and transport combined sewage to a publicly owned wastewater treatment plant; and**
- (2) may contain one (1) or more overflow points that discharge combined sewage entering the publicly owned wastewater treatment plant when the hydraulic capacity of the system or part of the system is exceeded as a result of a wet weather event.**

SECTION 5. IC 13-11-2-43.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 43.5. "Control alternative", for purposes of IC 13-18, means any of the following measures, or any combination of the following measures, for the control of wet weather flows in a combined sewer system:**

- (1) Source controls.**
- (2) Collection system controls.**
- (3) Storage technologies.**
- (4) Treatment technologies.**

SECTION 6. IC 13-11-2-50.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 50.5. "Degradation", for purposes of IC 13-18-3, has the meaning set forth in IC 13-18-3-2(b).**

SECTION 7. IC 13-11-2-72.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 72.5. "Exceptional use water", for purposes of IC 13-18-3, has the meaning set forth in IC 13-18-3-2(c).**

SECTION 8. IC 13-11-2-85.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 85.7. "First flush", for purposes of IC 13-18, means the transport of solids in a combined**

sewer system that:

- (1) have settled in pipes during periods between wet weather events; and
- (2) have washed off of impermeable surfaces such as streets and parking lots during the beginning of a wet weather event.

SECTION 9. IC 13-11-2-113.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 113.5. "Knee of the curve", for purposes of IC 13-18, means the point where the incremental change in the cost of the control alternative per change in performance of the control alternative changes most rapidly.**

SECTION 10. IC 13-11-2-120.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 120.5. "Long term control plan", for purposes of section 31.5 of this chapter and IC 13-18, means a plan that:**

- (1) is consistent with the federal Combined Sewer Overflow Control Policy (59 Fed. Reg. 18688);
- (2) is developed in accordance with the recommendations set forth in Combined Sewer Overflows Guidance for Long-Term Control Plan (EPA 832B95002);
- (3) describes changes and improvements to be made to a combined sewer system or to a publicly owned wastewater treatment plant for the purpose of meeting the requirements of the federal Clean Water Act and state law;
- (4) is developed with public participation using a process that is designed to promote active involvement by the affected public, through opportunities to provide in the decision making to select long term control alternatives:
 - (A) information;
 - (B) opinions; and
 - (C) comments;
- (5) is submitted to the department for approval; and
- (6) does the following:
 - (A) Uses characterization, monitoring, and modeling of the combined sewer system to determine:
 - (i) the response of the combined sewer system to various precipitation events;

- (ii) the characteristics of overflows from the combined sewer system; and
 - (iii) the water quality impacts that result from overflows from the combined sewer system.
- (B) Considers the impact of combined sewer overflows on sensitive areas and gives highest priority to controlling overflows in those areas.
- (C) Contains an evaluation of a reasonable range of control alternatives, taking into account expected and projected future growth.
- (D) Contains cost and performance analyses of the control alternatives evaluated.
- (E) Maximizes treatment of wet weather flows at a publicly owned treatment works (POTW) treatment plant.
- (F) Contains a practicable implementation schedule for the selected control alternative.
- (G) Contains a post-construction compliance monitoring program adequate to ascertain:
- (i) the effectiveness of the selected control alternative; and
 - (ii) the extent to which water quality standards have been attained.

SECTION 11. IC 13-11-2-149.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 149.5. "Outstanding national resource water", for purposes of IC 13-18-3, has the meaning set forth in IC 13-18-3-2(d).**

SECTION 12. IC 13-11-2-149.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 149.6. "Outstanding state resource water", for purposes of IC 13-18-3, has the meaning set forth in IC 13-18-3-2(e).**

SECTION 13. IC 13-11-2-242.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 242.5. "Use attainability analysis", for purposes of IC 13-18, refers to a structured scientific assessment of the physical, chemical, biological, and economic factors affecting the attainment of a designated use as provided in**

40 CFR 131.3(g).

SECTION 14. IC 13-11-2-265.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 265.5. "Watershed", for purposes of IC 13-18-3, has the meaning set forth in IC 14-8-2-310.**

SECTION 15. IC 13-11-2-265.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 265.3. "Wet weather event", for purposes of IC 13-18, means storm water runoff, snow melt runoff, or ice melt runoff entering a combined sewer system.**

SECTION 16. IC 13-18-2-3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3. (a) The department shall prepare a list of impaired waters for the purpose of complying with federal regulations implementing Section 303(d) of the federal Clean Water Act (33 U.S.C. 1313(d)). In determining whether a water body is impaired, the department shall consider all existing and readily available water quality data and related information. The department, before submitting the list to the United States Environmental Protection Agency, shall:**

- (1) publish the list in the Indiana Register;**
- (2) make the list available for public comment for at least ninety (90) days; and**
- (3) present the list to the board.**

If the United States Environmental Protection Agency changes the list, the board shall publish the changes in the Indiana Register and conduct a public hearing within ninety (90) days after receipt of the changes.

(b) The board shall adopt by rule the methodology to be used in identifying waters as impaired. The rule must specify the methodology and criteria for including and removing waters from the list of impaired waters.

SECTION 17. IC 13-18-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 2. (a) The board may adopt rules under IC 4-22-2 that are necessary to the implementation of:**

- (1) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as in effect January 1, 1988; and**

(2) the federal Safe Drinking Water Act (42 U.S.C. 300f through 300j), as in effect January 1, 1988;

except as provided in IC 14-37.

(b) "Degradation" means, with respect to a National Pollutant Discharge Elimination System permit, the following:

(1) With respect to an outstanding national resource water, any new or increased discharge of a pollutant or a pollutant parameter, except for a short term, temporary increase.

(2) With respect to an outstanding state resource water or an exceptional use water, any new or increased discharge of a pollutant or pollutant parameter that results in a significant lowering of water quality for that pollutant or pollutant parameter, unless:

(A) the activity causing the increased discharge:

(i) results in an overall improvement in water quality in the outstanding state resource water or exceptional use water; and

(ii) meets the applicable requirements of 327 IAC 2-1-2(1) and (2) and 327 IAC 2-1.5-4(a) and (b); or

(B) the person proposing the increased discharge undertakes or funds a water quality improvement project in accordance with subsection (l) in the watershed of the outstanding state resource water or exceptional use water that:

(i) results in an overall improvement in water quality in the outstanding state resource water or exceptional use water; and

(ii) meets the applicable requirements of 327 IAC 2-1-2(1) and (2) and 327 IAC 2-1.5-4(a) and (b).

(c) "Exceptional use water" means any water designated as an exceptional use water by the board, regardless of when the designation occurred.

(d) "Outstanding national resource water" means a water designated as such by the general assembly after recommendations by the board and the environmental quality service council under subsections (o) and (p). The designation must describe the quality of the outstanding national resource water to serve as the benchmark of the water quality that shall be maintained and protected. Waters that may be considered for designation as

outstanding national resource waters include water bodies that are recognized as:

(1) important because of protection through official action, such as:

- (A) federal or state law;**
- (B) presidential or secretarial action;**
- (C) international treaty; or**
- (D) interstate compact;**

(2) having exceptional recreational significance;

(3) having exceptional ecological significance;

(4) having other special environmental, recreational, or ecological attributes; or

(5) waters with respect to which designation as an outstanding national resource water is reasonably necessary for protection of other water bodies designated as outstanding national resource waters.

(e) "Outstanding state resource water" means any water designated as such by the board regardless of when the designation occurred or occurs. Waters that may be considered for designation as outstanding state resource waters include water bodies that have unique or special ecological, recreational, or aesthetic significance.

(f) "Watershed" has the meaning set forth in IC 14-8-2-310.

(g) The board may designate a water body as an outstanding state resource water by rule if the board determines that the water body has a unique or special ecological, recreational, or aesthetic significance.

(h) Before the board may adopt a rule designating a water body as an outstanding state resource water, the board must consider the following:

(1) Economic impact analyses, presented by any interested party, taking into account future population and economic development growth.

(2) The biological criteria scores for the water body, using factors that consider fish communities, macro invertebrate communities, and chemical quality criteria using representative biological data from the water body under consideration.

(3) The level of current urban and agricultural development in the watershed.

(4) Whether the designation of the water body as an outstanding state resource water will have a significant adverse effect on future population, development, and economic growth in the watershed, if the water body is in a watershed that has more than three percent (3%) of its land in urban land uses or serves a municipality with a population greater than five thousand (5,000).

(5) Whether the designation of the water body as an outstanding state resource water is necessary to protect the unique or special ecological, recreational, or aesthetic significance of the water body.

(i) Before the board may adopt a rule designating a water body as an outstanding state resource water, the board must make available to the public a written summary of the information considered by the board under subsections (g) and (h), including the board's conclusions concerning that information.

(j) The commissioner shall present a summary of the comments received from the comment period and information that supports a water body designation as an outstanding state resource water to the environmental quality service council not later than one hundred twenty (120) days after the rule regarding the designation is finally adopted by the board.

(k) Notwithstanding any other provision of this section, the designation of an outstanding state resource water in effect on January 1, 2000, remains in effect.

(l) For a water body designated as an outstanding state resource water, the board shall provide by rule procedures that will:

- (1) prevent degradation; and
- (2) allow for increases and additions in pollutant loadings from an existing or new discharge if:
 - (A) there will be an overall improvement in water quality for the outstanding state resource water as described in this section; and
 - (B) the applicable requirements of 327 IAC 2-1-2(1) and 327 IAC 2-1-2(2) and 327 IAC 2-1.5-4(a) and 327 2-1.5-4(b) are met.

(m) The procedures provided by rule under subsection (l) must include the following:

- (1) A definition of significant lowering of water quality that

includes a de minimis quantity of additional pollutant load:

**(A) for which a new or increased permit limit is required;
and**

**(B) below which antidegradation implementation
procedures do not apply.**

**(2) Provisions allowing the permittee to choose application of
one (1) of the following for each activity undertaken by the
permittee that will result in a significant lowering of water
quality in the outstanding state resource water or exceptional
use water:**

**(A) Implementation of a water quality project in the
watershed of the outstanding state resource water or the
exceptional use water that will result in an overall
improvement of the water quality of the outstanding state
resource water or the exceptional use water.**

**(B) Payment of a fee, not to exceed five hundred thousand
dollars (\$500,000) based on the type and quantity of
increased pollutant loadings, to the department for deposit
in the outstanding state resource water improvement fund
established under section 14 of this chapter.**

**(3) Criteria for the submission and timely approval of
projects described in subdivision (2)(A).**

(4) A process for public input in the approval process.

**(5) Use of water quality data that is less than seven (7) years
old and specific to the outstanding state resource water.**

**(6) Criteria for using the watershed improvement fees to fund
projects in the watershed that result in improvement in water
quality in the outstanding state resource water or exceptional
use water.**

**(n) For a water body designated as an outstanding state
resource water after June 30, 2000, the board shall provide by rule
antidegradation implementation procedures before the water body
is designated in accordance with this section.**

**(o) A water body may be designated as an outstanding national
resource water only by the general assembly after
recommendations for designation are made by the board and the
environmental quality service council.**

**(p) Before recommending the designation of an outstanding
national resource water, the department shall provide for an**

adequate public notice and comment period regarding the designation. The commissioner shall present a summary of the comments and information received during the comment period and the department's recommendation concerning designation to the environmental quality service council not later than ninety (90) days after the end of the comment period. The council shall consider the comments, information, and recommendation received from the department, and shall convey its recommendation concerning designation to the general assembly within six (6) months after receipt.

SECTION 18. IC 13-18-3-2.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 2.3. (a) A long term control plan, upon implementation, fulfills the water quality goals of the state with respect to wet weather discharges that are a result of overflows from the combined sewer system addressed by the plan if:**

- (1) the plan provides for the implementation of cost effective control alternatives that will attain water quality standards or maximize the extent to which water quality standards will be attained if they are not otherwise attainable;**
- (2) the plan provides, at a minimum, for the capture for treatment of first flush;**
- (3) the plan is reviewed periodically; and**
- (4) additional controls are implemented as provided in section 2.4 of this chapter.**

Cost effectiveness may be determined, at the option of the permit holder, by using a knee of the curve analysis.

(b) When a use attainability analysis is required for a suspension of designated uses under this chapter, the department must, to the maximum extent permitted under state or federal law:

- (1) review a use attainability analysis submitted under this chapter concurrently with a long term control plan submitted under this chapter; and**
- (2) use the approved long term control plan to satisfy the requirements of the use attainability analysis.**

SECTION 19. IC 13-18-3-2.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 2.4. (a) A permit holder shall**

review the feasibility of implementing additional or new control alternatives to attain water quality standards, including standards suspended under section 2.5 of this chapter. The permit holder shall conduct such a review periodically, but not less than every five (5) years after approval of the long term control plan by the department. The permit holder shall:

- (1) document to the department that the long term control plan has been reviewed;
- (2) update the long term control plan as necessary;
- (3) submit any amendments to the long term control plan to the department for approval; and
- (4) implement control alternatives determined to be cost effective.

Cost effectiveness may be determined, at the option of the permit holder, by using a knee of the curve analysis.

SECTION 20. IC 13-18-3-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.5. (a) Subject to the limitations of subsection (d), designated uses and associated water quality criteria are temporarily suspended on a site specific basis, for waters affected by discharges from combined sewer overflow points listed in the National Pollutant Discharge Elimination System (NPDES) permit due to wet weather events, if:

- (1) the department has approved a long term control plan for the NPDES permit holder for the combined sewer system;
- (2) the approved long term control plan is incorporated into the permit holder's NPDES permit;
- (3) the approved long term control plan:
 - (A) satisfies the requirements of section 2.3 of this chapter; and
 - (B) specifies the designated uses and water quality standards to be suspended under this section;
- (4) the permit holder:
 - (A) has implemented the approved long term control plan; or
 - (B) is implementing the approved long term control plan in accordance with the schedule approved in the long term control plan;
- (5) the permit holder is in compliance with the requirements

for the operation and maintenance of its wastewater treatment facilities and combined sewer system, including its combined sewer operational plan approved by the department; and

(6) the provisions of 40 CFR 131.10, 40 CFR 131.20, and 40 CFR 131.21 are satisfied.

The provisions of 40 CFR 131.10 may be satisfied by including appropriate data and information in the long term control plan.

(b) Existing uses as defined in 40 CFR 131.3(e) and associated water quality criteria may be suspended only in accordance with federal law.

(c) To the extent permitted under federal law, the department shall provide a compliance schedule for attainment of water quality based limitations for discharges from combined sewer overflow points in the NPDES permit during the period when the long term control plan is being developed.

(d) A temporary suspension applies only:

(1) to the NPDES permit holder for discharges from the permit holder's listed combined sewer overflow points; and

(2) during the time and to the physical extent that the designated uses and water quality standards are not attained due to the discharges from the listed combined sewer overflow points, but no more than four (4) days after the date the overflow discharge ends.

(e) The board may adopt rules in accordance with IC 13-14-8 and IC 13-14-9 to amend the water quality standards to include the terms of the temporary suspension allowed by this section.

(f) The permit holder shall monitor its discharges and the water quality in the affected receiving stream periodically, but at least every three (3) years. The permit holder shall provide all such information to the department.

(g) In conjunction with a review of its long term control plan under section 2.4 of this chapter, the permit holder shall review information generated after the use attainability analysis was approved by the department to determine whether the conclusion of the use attainability analysis is still valid. The permit holder shall provide the results of the review to the department.

(h) A temporary suspension under this section may be authorized only to the extent allowed under federal law. If the

department determines that information provided under this section demonstrates that uses being suspended are attainable, the department shall promptly notify the permit holder of its determination. A permit holder may appeal the department's determination under this section in accordance with IC 4-21.5.

(i) After the effective date of the determination under subsection (h), the long term control plan may be modified to achieve attainment of the previously suspended uses and associated water quality criteria. The compliance schedule and other provisions of the NPDES permit shall also be modified as necessary.

SECTION 21. IC 13-18-3-14 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 14. (a) The outstanding state resource water improvement fund is established. All money collected under section 2 of this chapter and any money accruing to the fund are continuously appropriated to the fund to carry out the purposes of section 2 of this chapter. Money in the fund at the end of a state fiscal year does not revert to the state general fund, unless the outstanding state resource water improvement fund is abolished.**

(b) The outstanding state resource water improvement fund shall be administered as follows:

- (1) The fund may be used by the department of environmental management to fund projects that will lead to overall improvement to the water quality of the affected exceptional use water or outstanding state resource water.**
- (2) The treasurer of state may invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.**
- (3) Any interest received accrues to the fund.**
- (4) The expenses of administering the fund shall be paid from the fund.**

SECTION 22. IC 13-18-19-2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 2. (a) The department may issue National Pollutant Discharge Elimination System (NPDES) permits containing conditions that include alternate water quality based effluent limits that:**

- (1) are based on receiving water flows associated with, or**

characteristic of:

- (A) wet weather events of various degrees of duration and intensity; or
- (B) low flow stream conditions derived on a monthly, quarterly, or annual basis;
- (2) provide increased mass limitations, concentration limitations, or mass and concentration limitations, for publicly owned treatment works (POTW) that:
 - (A) are capable of treating wastewater flows that exceed the design flow used to calculate normal water quality based effluent limitations; and
 - (B) as a result of the increased limitations, can reduce the volume of discharge of wastewater from plant bypasses or combined sewer overflows; or
- (3) include any factor or combination of factors described in subdivisions (1) and (2).

(b) The department may require an applicant for an NPDES permit containing at least one (1) of the conditions described in subsection (a) to document, in a reasonable manner, stream conditions and local controls that are germane to a condition described in subsection (a) before the department issues the NPDES permit.

SECTION 23. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "NPDES" refers to a National Pollutant Discharge Elimination System.

(b) As used in this SECTION, "combined sewer" has the meaning set forth in IC 13-11-2-31.4.

(c) The water pollution control board established under IC 13-18-1 shall adopt a rule before September 1, 2001, establishing requirements for community notification by NPDES permit holders of the potential health impact of combined sewer overflows whenever information from any reliable source indicates that:

- (1) a discharge or discharges from one (1) or more combined sewer overflow points is occurring; or
- (2) there is a reasonable likelihood that a discharge or discharges from one (1) or more combined sewer overflow points will occur within the next twenty-four (24) hours.

(d) This SECTION expires January 1, 2002.

SECTION 24. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "combined sewer" has the meaning set forth in IC 13-11-2-31.4.

(b) As used in this SECTION, "long term control plan" has the meaning set forth in IC 13-11-2-120.5.

(c) As used in this SECTION, "use attainability analysis" has the meaning set forth in IC 13-11-2-242.5.

(d) Before October 1, 2000, the department of environmental management shall provide guidance to all combined sewer overflow communities explaining the requirement of the use attainability analysis and the long term control plan to aid communities in determining how to comply with the requirements. This guidance must clearly identify, to the extent possible, all of the appropriate data and information required by the department of environmental management for a permit holder's long term control plan that will also satisfy the requirements of a use attainability analysis. The guidance must include information regarding minimization of industrial discharges in wet weather events.

(e) The department shall report to the environmental quality service council at each meeting of the council the progress of guidance given under this SECTION.

(f) This SECTION expires January 1, 2001.

SECTION 25. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "board" refers to the water pollution control board established under IC 13-18-1.

(b) All waters designated under 327 IAC 2-1.5-19(b) as outstanding state resource waters shall be maintained and protected in their present quality in accordance with the antidegradation implementation procedures for the outstanding state resource waters established by the board for waters in the Great Lakes system. Nothing in this act except IC 13-18-3-2, as amended by this act, affects the authority of the board to amend 327 IAC 5-2-11.7. Any rule adopted by the board contrary to this standard is void.

(c) All waters designated as outstanding state resource waters under 327 IAC 2-1-2(3) and waters designated as exceptional use waters under 327 IAC 2-1-6(i) shall be maintained and protected in accordance with 327 IAC 2-1-2(1) and 327 IAC 2-1-2(2). If a

permittee seeks a new or increased discharge for which a new or increased permit limit is required and that amounts to a significant lowering of water quality, the permittee shall demonstrate an overall improvement in water quality in the outstanding state resource water or exceptional use water, subject to:

(1) the approval of the department of environmental management; and

(2) IC 13-18-3-2(m)(2)(A) and IC 13-18-3-2(m)(2)(B), as amended by this act.

(d) Any rule adopted by the board before the effective date of this SECTION is void to the extent that it:

(1) is inconsistent with this SECTION; or

(2) requires protection of waters beyond the protection required by 327 IAC 2-1-2(1) and 327 IAC 2-1-2(2).

(e) Before January 1, 2001, the board shall amend 327 IAC 2-1-2, 327 IAC 2-1-6, and 327 IAC 2-1.5-4 to reflect this act.

(f) This SECTION expires on the earlier of:

(1) the effective date of the rule amendments adopted by the board under subsection (e); or

(2) January 1, 2001.

SECTION 26. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "department" refers to the department of environmental management.

(b) Before July 1, 2001, the department shall develop and maintain a quality assurance program plan and information management system to assess the validity and reliability of the data used in the implementation of IC 13-18-2-3, as added by this act, and IC 13-18-3-2, as amended by this act.

(c) The department:

(1) shall make data from the information management system under subsection (b) available to the public upon request; and

(2) may charge a reasonable fee to persons requesting the data.

(d) The department shall use the data from the information management system under subsection (b) to review the data as of January 1, 2002, supporting:

(1) the listing of impaired waters under IC 13-18-2-3, as added by this act; and

(2) the special designation of waters under IC 13-18-3-2, as

amended by this act.

(e) Before July 1, 2000, the environmental quality service council shall appoint a water data task force to assess the program resource needs of the department to collect adequate physical, chemical, and biological data used by the department. The task force shall present its findings to the environmental quality service council upon completion.

(f) The water data task force appointed under subsection (e) shall include four (4) members of the general assembly, the chairperson of the environmental quality service council, and representatives of the following:

- (1) The academic community in the disciplines of biology, chemistry, and hydrology.
- (2) The department.
- (3) The department of natural resources.
- (4) The United States Geological Survey.
- (5) Private chemical water testing laboratories.
- (6) Industry.
- (7) Agriculture.
- (8) Environmental advocacy organizations.
- (9) General citizens.
- (10) Municipalities.
- (11) The water pollution control board.
- (12) Local public health officials.
- (13) The state department of health.
- (14) The United States Fish and Wildlife Service.

(g) This SECTION expires October 1, 2002.

SECTION 27. [EFFECTIVE UPON PASSAGE] (a) Until October 1, 2002, the following apply to a water body designated before October 1, 2002, as an exceptional use water:

- (1) The water body is subject to the overall water quality improvement provisions of IC 13-18-3-2(l), as added by this act.
- (2) The water body is not subject to a standard of having its water quality maintained and protected without degradation consistent with the provisions of this act.

(b) Before October 1, 2002, the water pollution control board established under IC 13-18-1 shall:

- (1) determine whether, effective October 1, 2002, to designate

as an outstanding state water each water designated before October 1, 2002, as an exceptional use water under 327 IAC 2-1-11; and

(2) complete rulemaking to make any designation determined under subdivision (1).

(c) This SECTION expires January 1, 2003.

SECTION 28. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "board" refers to the water pollution control board established under IC 13-18-1.

(b) Before October 1, 2003, the board shall establish policies and rules to govern the implementation of total maximum daily load requirements of Section 303(d) of the Clean Water Act, 33 U.S.C. 1313(d).

(c) Before July 1, 2000, the department shall appoint a working group of stakeholders with respect to the implementation of maximum daily load requirements as described in subsection (b). The working group shall consider and make recommendations to the department of environmental management and the board on identification of issues, the development of policy options, policy adoption, and rulemaking. The working group must include representatives from:

- (1) the general public;
- (2) municipalities;
- (3) industry;
- (4) business;
- (5) agriculture;
- (6) environmental advocacy groups; and
- (7) others with a high level of expertise in the subject area to be considered by the working group.

(d) The working group appointed under subsection (c) must also include the following members:

- (1) a representative of the environmental quality service council;
- (2) a technical secretary; and
- (3) a member of the board.

(e) This SECTION expires October 1, 2003.

SECTION 29. An emergency is declared for this act.

P.L.141-2000

[S.447. Approved March 17, 2000.]

AN ACT to amend the Indiana Code concerning state and local administration.

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

SECTION 1. IC 5-13-12-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 2.5. (a) This section applies to a meeting of the board for depositories at which at least five (5) members of the board are physically present at the place where the meeting is conducted.**

(b) A member of the board may participate in a meeting of the board by using a means of communication that permits:

- (1) all other members participating in the meeting; and**
- (2) all members of the public physically present at the place where the meeting is conducted;**

to simultaneously communicate with each other during the meeting.

(c) A member who participates in a meeting under subsection (b) is considered to be present at the meeting.

(d) A member who participates in a meeting under subsection (b) may act as a voting member on official action only if that official action is voted upon by at least five (5) members of the board physically present at the place where the meeting is conducted.

(e) The memoranda of the meeting prepared under IC 5-14-1.5-4 must also state the name of each member who:

- (1) was physically present at the place where the meeting was conducted;**
- (2) participated in the meeting by using a means of communication described in subsection (b); and**
- (3) was absent.**

(f) A member who participates in a meeting under subsection (b) may not cast the deciding vote on any official action.

P.L.142-2000

[S.455. Approved March 17, 2000.]

AN ACT to amend the Indiana Code concerning human services.

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

SECTION 1. IC 12-7-2-110 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 110. "Hospital" means the following:

(1) For purposes of IC 12-15-11.5, the meaning set forth in IC 12-15-11.5-1.

(†) (2) For purposes of IC 12-15-18, the meaning set forth in IC 12-15-18-2.

(‡) (3) For purposes of IC 12-16, except IC 12-16-1, the term refers to a hospital licensed under IC 16-21.

SECTION 2. IC 12-15-11.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 11.5. Lake County Disproportionate Share Hospitals

Sec. 1. As used in this chapter, "hospital" refers to an acute care hospital provider that:

(1) is licensed under IC 16-21;

(2) qualifies as a disproportionate share hospital under IC 12-15-16; and

(3) is the sole disproportionate share hospital in a city located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

Sec. 2. (a) The office's managed care contractor shall regard a hospital as a contracted provider in the office's managed care services program, which provides a capitated prepayment managed care system, for the provision of medical services to each individual who:

(1) is eligible to receive services under IC 12-15 and has enrolled in the office's managed care services program;

(2) resides in the same city in which the hospital is located;
and

(3) has selected a primary care provider who:

(A) is a contracted provider with the office's managed care contractor; and

(B) has medical staff privileges at the hospital.

(b) This section expires December 31, 2000.

Sec. 3. (a) The office or the office's managed care contractor may not provide incentives or mandates to the primary medical provider to direct individuals described in section 2 of this chapter to contracted hospitals other than a hospital in a city where the patient resides.

(b) A hospital that provides services to individuals described in section 2 of this chapter shall comply with eligibility verification and medical management programs negotiated under the hospital's most recent contract or agreement with the office's managed care contractor.

(c) This section expires December 31, 2000.

Sec. 4. (a) A hospital that:

(1) does not have a contract in effect with the office's managed care contractor; but

(2) previously contracted or entered into an agreement with the office's managed care contractor for the provision of services under the office's managed care program;

shall be reimbursed for services provided to individuals described in section 2 of this chapter at rates equivalent to the rates negotiated under the hospital's most recent contract or agreement with the office's managed care contractor, as adjusted for inflation by the inflation adjustment factor described in subsection (b). However, the adjusted rates may not exceed the established Medicaid rates paid to Medicaid providers who are not contracted providers in the office's managed health care services program. This subsection expires December 31, 2000.

(b) For each state fiscal year beginning after June 30, 2001, an inflation adjustment factor shall be applied under subsection (a) that is the average of the percentage increase in the medical care component of the Consumer Price Index for all Urban Consumers and the percentage increase in the Consumer Price Index for all Urban Consumers, as published by the United States Bureau of

Labor Statistics, for the twelve (12) month period ending in March preceding the beginning of the state fiscal year. This subsection expires July 1, 2001.

Sec. 5. (a) A hospital may enter into a contract with the office or the office's managed care contractor for reimbursement rates other than the reimbursement rates described in section 4 of this chapter.

(b) This section expires December 31, 2000.

Sec. 6. A claim for reimbursement for services shall be treated as a disputed claim under this chapter if:

- (1)** it is submitted within one hundred twenty (120) days after the date that services are rendered;
- (2)** it is denied by the managed care contractor;
- (3)** the hospital submits a written notice of dispute for the claim to the managed care contractor not more than sixty (60) days after the receipt of the denial notice;
- (4)** it is appealed in accordance with the managed care contractor's internal appeals process; and
- (5)** payment for the claim is denied by the managed care contractor following its internal appeals process.

Sec. 7. The office's managed care contractor must conclude an appeal under section 6(4) of this chapter and notify the hospital of its decision not more than thirty-five (35) days after the managed care contractor receives a notice from the hospital disputing the managed care contractor's denial of a claim.

Sec. 8. (a) A contract entered into by a hospital with the office's managed care contractor for the provision of services under the office's managed care services program must include a dispute resolution procedure for all disputed claims. Unless agreed to in writing by the hospital and the office's managed care contractor, the dispute resolution procedure must include the following requirements:

- (1)** That submission of disputed claims must be made to an independent arbitrator selected under subsection (b).
- (2)** Each claim must set forth with specificity the issues to be arbitrated, the amount involved, and the relief sought.
- (3)** That the hospital and the office's managed care contractor shall attempt in good faith to resolve all disputed claims.
- (4)** The hospital shall submit to the arbitrator any claims that

remain in dispute sixty (60) calendar days after the hospital receives written notice as provided under section 7 of this chapter.

(5) That resolution of disputes by the arbitrator must occur not later than ninety (90) calendar days after submission of disputed claims to the arbitrator, unless the parties mutually agree otherwise.

(6) That determinations of the arbitrator are final and binding and not subject to any appeal or review procedure.

(7) That the arbitrator does not have the authority to award any punitive or exemplary damages or to vary or ignore the terms of any contract between the parties and shall be bound by controlling law.

(8) That judgment upon the award rendered by the arbitrator may be entered and enforced in and is subject to the jurisdiction of a court with jurisdiction in Indiana.

(9) That the cost of the arbitrator must be shared equally by the parties, and each party must bear its own attorney and witness fees.

(b) The parties to a contract described in subsection (a) shall mutually agree on an independent arbitrator, or, if the parties are unable to reach agreement on an independent arbitrator, the following procedure must be followed:

(1) Each party shall select an independent representative, and the independent representatives shall select a panel of three (3) independent arbitrators who have experience in institutional and professional health care delivery practices and procedures and have had no prior dealing with either party other than as an arbitrator.

(2) The parties will each strike one (1) arbitrator from the panel selected under subdivision (1), and the remaining arbitrator serves as the arbitrator of the disputed claims under subsection (a).

(3) The procedures for selecting an arbitrator under this section must be completed not later than twenty (20) calendar days after the hospital provides written notice of at least one (1) disputed claim.

Sec. 9. The arbitration process described in section 8 of this chapter shall also be followed for resolution of disputed claims

between a hospital and the office's managed care contractor, if the hospital is not a contracted provider in the office's managed health care services program.

SECTION 3. [EFFECTIVE UPON PASSAGE] A hospital (as defined in IC 12-15-11.5-1, as added by this act) and the managed care contractor of the office (as defined in IC 12-7-2-134) shall use the arbitration procedure in IC 12-15-11.5-8, as added by this act, for the resolution of all disputed claims (as defined in IC 12-15-11.5-6, as added by this act) that have accrued as of the effective date of IC 12-15-11.5, as added by this act.

SECTION 4. An emergency is declared for this act.

P.L.143-2000

[S.511. Approved March 17, 2000.]

AN ACT to amend the Indiana Code concerning environmental law.

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

SECTION 1. IC 13-11-2-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: **Sec. 1.5. "Acute hazardous waste", for purposes of IC 13-22-4-3.1, has the meaning set forth in IC 13-22-4-3.1(a).**

SECTION 2. IC 13-14-12-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 1. (a) The officials collecting the following shall remit the money to the treasurer of state:

- (1) Money collected under the following:
 - (A) IC 13-30-4-1.
 - (B) IC 13-30-4-2.
 - (C) IC 13-30-5-1.
 - (2) Fees collected under IC 13-16-1-2 through IC 13-16-1-5.
 - ~~(3) Fees collected under IC 13-22-4-5.~~
- (b) The treasurer of state shall credit the money to the

environmental management special fund.

SECTION 3. IC 13-22-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 1. (a) ~~The solid waste management board shall: (1) adopt a manifest form; and (2) prescribe the form's use regarding~~ **A person that generates hazardous waste that is transported to a:**

- ~~(A) (1) treatment;~~
- ~~(B) (2) storage; or~~
- ~~(C) (3) disposal;~~

facility located at a site other than the site where the waste was generated **shall use the Uniform Hazardous Waste Manifest form adopted by the United States Environmental Protection Agency for purposes of the transportation of hazardous waste.**

~~(b) The form:~~

- ~~(1) where applicable; must call for the entry of the same information as is required under 40 CFR 261 and 40 CFR 262; Subpart B by the United States Environmental Protection Agency; in the same manner and form as required by the United States Environmental Protection Agency; and~~
- ~~(2) may call for the entry of any additional information required by:~~

- ~~(A) the United States Environmental Protection Agency; or~~
- ~~(B) the board under a rule adopted by the board.~~

(b) In addition to any other information a person is required to enter on the Uniform Hazardous Waste Manifest form described in subsection (a), the person shall enter, in an appropriate place on the form, the waste codes for each hazardous waste in a shipment that is transported to the treatment, storage, or disposal facility.

SECTION 4. IC 13-22-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 2. ~~(a) If a generator generates at least one hundred (100) kilograms of hazardous waste in a month; the generator shall, within five (5) working days after the transportation of any hazardous waste to a treatment, storage, or disposal facility during that month; submit to the office of solid and hazardous waste management of the department a copy of the manifest created for purposes of the transportation of the hazardous waste:~~

~~(b) (a) A generator located in Indiana whose hazardous waste is transported to a treatment, storage, or disposal facility located in~~

another state may use a manifest form prescribed by the law of the other state to meet the requirements of this chapter if the form is compatible with the form ~~adopted under~~ **described in** section 1 of this chapter.

~~(c)~~ **(b)** A generator located in a state other than Indiana whose hazardous waste is transported to a treatment, storage, or disposal facility in Indiana must:

- (1) use the manifest form ~~adopted under~~ **described in** section 1 of this chapter; and
- (2) meet the other requirements of IC 13-22-2 through IC 13-22-8 and IC 13-22-13 through IC 13-22-14.

SECTION 5. IC 13-22-4-3.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: **Sec. 3.1. (a) "Acute hazardous waste" has the meaning set forth in 40 CFR Part 261.**

(b) A person that:

(1) in any one (1) or more calendar months of a calendar year generates:

(A) more than one hundred (100) kilograms but less than one thousand (1,000) kilograms of hazardous waste;

(B) less than one (1) kilogram of acute hazardous waste; or

(C) less than one hundred (100) kilograms of material from the cleanup spillage of acute hazardous waste; or

(2) accumulates at least one thousand (1,000) kilograms of hazardous waste or less than one (1) kilogram of acute hazardous waste;

shall, before March 1 of each year, submit to the department on forms provided by the department a report, containing no more than a compilation of information from the Uniform Hazardous Waste Manifest form described in section 1(a) of this chapter, that summarizes the person's hazardous waste shipments during the previous calendar year.

(c) A person that:

(1) in any one (1) or more calendar months of a calendar year generates:

(A) more than one thousand (1,000) kilograms of hazardous waste;

(B) at least one (1) kilogram of acute hazardous waste; or

(C) at least one hundred (100) kilograms of material from the cleanup spillage of acute hazardous waste;
(2) accumulates at least six thousand (6,000) kilograms of hazardous waste or at least one (1) kilogram of acute hazardous waste; or
(3) is a treatment, storage, or disposal facility;
 shall, before March 1 of each year, submit to the department either the biennial report required by the United States Environmental Protection Agency concerning the person's waste activities during the previous calendar year, or an annual report on forms provided by the department, containing no more than a compilation of information from the Uniform Hazardous Waste Manifest form described in section 1(a) of this chapter, that summarizes the person's hazardous waste shipments during the previous calendar year.

SECTION 6. IC 13-22-5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 6. (a) If the rejected load is to be returned to a generator, the generator shall complete a new manifest form and comply with all of the standards applicable to generators of hazardous waste except the following:

- (1) Line out the word "generator" in Box 3 of the manifest and insert the words "rejecting facility".
- (2) Line out the words "designated facility" in Box 9 of the manifest and insert the word "generator".
- (3) Write the words "REJECTED LOAD" in large block print and indicate the ~~state~~ manifest document number of the original manifest in Box 15 of the rejected load manifest.

(b) The rejected load manifest must accompany the shipment back to the generator. The generator retains all responsibility for transportation of the rejected waste.

SECTION 7. IC 13-22-5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 7. (a) When the rejected waste and the manifest are received by the generator, the generator shall do the following:

- (1) Note any discrepancies in Box 19 of the manifest.
- (2) Line out the words "Facility Owner or Operator" in Box 20 of the manifest and insert the words "Receiving generator".
- (3) Sign Box 20 of the manifest.

(4) Give a copy of the manifest to the transporter.

(5) Mail a copy of the manifest to the rejecting facility ~~and the department~~ not more than five (5) days after receipt of the shipment and the manifest.

(b) The receiving generator and rejecting facility shall retain copies of the manifest from the rejected load for not less than three (3) years after the date of receipt.

SECTION 8. THE FOLLOWING ARE REPEALED [EFFECTIVE JANUARY 1, 2001]: IC 13-22-4-3; IC 13-22-4-4; IC 13-22-4-5; IC 13-22-12-4.

CERTIFICATE

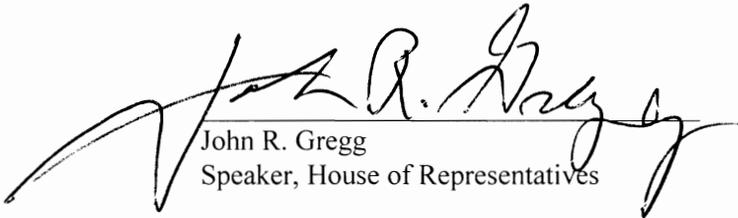
INDIANA GENERAL ASSEMBLY

SS:

STATE OF INDIANA

We, the undersigned, do hereby certify that P.L. 1-2000 through P.L. 143-2000 of the Second Regular Session of the One Hundred Eleventh General Assembly of the State of Indiana have been compared with the enrolled acts from which they were taken and have been found correctly printed.

Signed in the State of Indiana, this 2^d day of April, 2000.



John R. Gregg
Speaker, House of Representatives



Robert D. Garton
President Pro Tempore, Senate

FUND BALANCE STATEMENT OF AUDITOR OF STATE
For the Year Ended June 30, 1999
(amounts expressed in thousands)

	Balance July 1, 1998	Revenues	Expenditures	Balance June 30, 1999
General Fund	\$3,272,199	\$8,766,517	\$7,654,399	\$3,440,583
Prior Period Adjustments	10,000			
Residual Equity Transfer	(4,677)			
Other Financing Sources (Net)		(949,057)		
Special Revenue Funds	1,647,693	7,222,266	7,567,605	1,666,467
Prior Period Adjustments	(5,722)			
Other Financing Sources (Net)		369,835		
Highway Fund	138,413	508,718	1,066,849	201,800
Other Financing Sources (Net)		621,518		
Capital Projects Funds	340,249	55,555	113,989	517,900
Other Financing Sources (Net)		236,085		
Enterprise Funds	131,803	321,282	84,948	146,357
Prior Period Adjustments	424			
Nonoperating Revenues (Net)		(12,808)		
Operating Transfers (Net)		(209,396)		
Internal Service Funds	32,141	201,918	155,909	50,886
Prior Period Adjustments	4,132			
Nonoperating Revenues (Net)		(29,642)		
Operating Transfers (Net)		(1,754)		
Pension Trust Funds	13,145,228	2,639,453	950,806	14,828,110
Prior Period Adjustments	(5,765)			
Expendable Trust Funds	1,442,979	476,214	331,117	1,941,517
Reclassification	358,448			
Other Financing Sources (Net)		(5,007)		
Non-Expendable Trust Funds	397,882	7,973	21,076	421,431
Nonoperating Revenues (Net)		5,482		
Operating Transfers (Net)		31,170		
Total	<u>\$20,905,427</u>	<u>\$20,256,322</u>	<u>\$17,946,698</u>	<u>\$23,215,051</u>

Table of Citations Affected

Affected Provisions	Type	SEC.	Effective	P.L.
Noncode				
0-1996-165-3 . . .	Amended	7	06/30/2000	85-2000
0-1996-50-18 . . .	Amended	9	07/01/2000	96-2000
0-1996-50-19 . . .	Repealed	8	07/01/2000	96-2000
0-1996-50-20 . . .	Repealed	8	07/01/2000	96-2000
0-1997-175-8 . . .	Amended	5	03/15/2000	75-2000
0-1997-199-7 . . .	Amended	2	06/01/2000	107-2000
0-1999-69-14 . . .	Amended	87	03/15/2000	14-2000
0-1999-196-73 . .	Amended	88	03/15/2000	14-2000
0-1999-224-21 . .	Amended	89	03/15/2000	14-2000
0-1999-273-147 .	Amended	14	01/01/2001	3-2000
0-1999-273-156 .	Repealed	16	01/01/2000	3-2000
0-1999-273-157 .	Repealed	16	01/01/2000	3-2000
0-1999-273-158 .	Repealed	16	01/01/2000	3-2000
Title 1				
1-1-9-1	Amended	1	03/15/2000	26-2000
Title 2				
2-3-5-5-3	Amended	1	07/01/2000	118-2000
2-5-23-5	Amended	1	07/01/2000	11-2000
2-5-23-13	Amended	2	07/01/2000	11-2000
Title 3				
3-5-4-7	Amended	1	07/01/2000	122-2000
3-6-4.1-6	Amended	2	07/01/2000	122-2000
3-6-4.2-14	Amended	2	07/01/2000	26-2000
3-6-5.2-6	Amended	3	03/15/2000	26-2000
3-7-12-2	Amended	1	03/15/2000	14-2000
3-7-33-5	Amended	3	07/01/2000	122-2000
3-7-33-6	Amended	4	07/01/2000	122-2000
3-8-1-1.6	Amended	4	01/01/2001	26-2000
3-8-1-28.5	Amended	2	03/15/2000	14-2000
3-8-1-29.5	Amended	3	03/15/2000	14-2000
3-8-2-2.2	Amended	5	01/01/2001	26-2000
3-8-2-2.5	Amended	6	01/01/2001	26-2000
3-8-4-3	Amended	5	03/17/2000	122-2000
3-8-6-12	Amended	4	01/01/2000	14-2000
3-8-6-12	Amended	7	01/01/2001	26-2000

Table of Citations Affected

Affected Provisions	Type	SEC.	Effective	P.L.
3-8-7-25.5	Amended	5	01/01/2000	14-2000
3-9-1-1	Amended	8	01/01/2001	26-2000
3-9-1-5	Amended	9	01/01/2001	26-2000
3-9-1-5.5	New	10	01/01/2001	26-2000
3-9-1-6	Amended	11	01/01/2001	26-2000
3-9-2-1	Amended	12	01/01/2001	26-2000
3-9-4-1	Amended	13	01/01/2001	26-2000
3-9-5-1	Amended	14	01/01/2001	26-2000
3-10-1-4.5	Amended	6	07/01/2000	122-2000
3-10-2-4	Amended	7	07/01/2000	122-2000
3-10-2-7	Amended	8	07/01/2000	122-2000
3-10-2-12	Amended	9	07/01/2000	122-2000
3-10-6-2	Amended	10	07/01/2000	122-2000
3-10-6-3	Amended	11	07/01/2000	122-2000
3-10-6-5	Amended	12	07/01/2000	122-2000
3-10-6-6	Amended	13	07/01/2000	122-2000
3-11-13-20	Amended	15	03/15/2000	26-2000
3-11-13-22	Amended	16	11/01/1999	26-2000
3-11-13-23	Amended	17	11/01/1999	26-2000
3-11-13-24	Amended	18	11/01/1999	26-2000
3-11-13-25	Amended	19	11/01/1999	26-2000
3-11-13-26	Amended	20	11/01/1999	26-2000
3-11-15-18	Repealed	46	07/01/2000	26-2000
3-11-15-19	Repealed	46	07/01/2000	26-2000
3-11-15-27	Repealed	46	07/01/2000	26-2000
3-11-15-28	Repealed	46	07/01/2000	26-2000
3-11-15-29	Repealed	46	07/01/2000	26-2000
3-11-15-30	Repealed	46	07/01/2000	26-2000
3-11-15-31	Repealed	46	07/01/2000	26-2000
3-11.5-4-22	Amended	6	03/15/2000	14-2000
3-12-8-1	Amended	7	03/15/2000	14-2000
3-13-1-5	Amended	21	03/15/2000	26-2000
3-13-1-6	Amended	22	03/15/2000	26-2000
3-13-1-10	Amended	23	03/15/2000	26-2000
3-13-1-11	Amended	24	03/15/2000	26-2000
3-13-1-11.5	New	25	03/15/2000	26-2000
3-13-5-1	Amended	26	03/15/2000	26-2000
3-13-5-4	Amended	27	03/15/2000	26-2000
3-13-5-5	Amended	28	03/15/2000	26-2000
3-13-11-5	Amended	29	03/15/2000	26-2000
3-13-11-9	Amended	30	03/15/2000	26-2000
3-13-11-11	Amended	31	03/15/2000	26-2000

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Affected Provisions	Type	SEC.	Effective	P.L.
Title 4				
4-4-3-22	New	1	07/01/2000	126-2000
4-4-4.6-3	Amended	2	07/01/2000	126-2000
4-4-6.1-1.1	Amended	1	01/01/2000	73-2000
4-4-10.9-3.2	Amended	8	03/15/2000	14-2000
4-4-10.9-11	Amended	9	03/15/2000	14-2000
4-4-11-17.5	Amended	10	03/15/2000	14-2000
4-4-26-25	Amended	11	03/15/2000	14-2000
4-10-10-11	New	1	07/01/2000	127-2000
4-12-1-14.3	Amended	1	07/01/2000	21-2000
4-12-4	New	2	04/01/2000	21-2000
4-12-5	New	3	04/01/2000	21-2000
4-12-6	New	4	07/01/2001	21-2000
4-12-7	New	5	07/01/2001	21-2000
4-12-8	New	6	03/13/2000	21-2000
4-12-9	New	7	07/01/2001	21-2000
4-15-2-3.8	Amended	1	07/01/2000	119-2000
4-20.5-21	New	1	07/01/2000	22-2000
4-22-2-13	Amended	1	07/01/2001	57-2000
4-23-24.2-3	Repealed	12	03/15/2000	14-2000
4-31-8-4	Amended	1	11/19/1999	1-2000
4-33-4-3	Amended	13	03/15/2000	14-2000
Title 5				
5-1-1-1	Amended	1	03/15/2000	89-2000
5-2-1-9	Amended	1	07/01/2000	25-2000
5-2-1-15.2	Amended	1	07/01/2000	27-2000
5-2-5-1	Amended	1	07/01/2000	24-2000
5-2-5-14	New	1	07/01/2000	56-2000
5-2-5-14.3	New	2	07/01/2000	24-2000
5-2-6.1-35	Amended	1	07/01/2000	55-2000
5-3-1-3	Amended	1	07/01/2000	98-2000
5-3-1-4	Amended	2	07/01/2000	98-2000
5-4-1-1.2	Amended	32	11/01/1999	26-2000
5-4-1-4	Amended	14	03/15/2000	14-2000
5-6-1-2	Amended	33	05/10/1999	26-2000
5-8-3.5-1	Amended	34	03/15/2000	26-2000
5-10-8-1	Amended	1	07/01/2000	50-2000
5-10-8-7.7	New	1	07/01/2000	78-2000
5-10-8-7.8	New	1	07/01/2000	54-2000

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Affected Provisions	Type	SEC.	Effective	P.L.
5-10-10-4	Amended	1	04/27/1997	66-2000
5-10.2-2-1	Amended	2	07/01/2000	119-2000
5-10.2-2-12	Amended	3	07/01/2000	119-2000
5-10.2-3-2	Amended	1	07/01/2000	53-2000
5-10.2-3-7.5	Amended	2	07/01/1999	118-2000
5-10.3-3-7	Amended	4	07/01/2000	119-2000
5-10.3-3-8	Amended	5	07/01/2000	119-2000
5-10.3-11-4.5	Amended	3	07/01/2000	118-2000
5-11-1-4	Amended	2	07/01/2000	50-2000
5-11-10.5-7	New	2	07/01/2000	127-2000
5-11-14-1	Amended	3	01/01/2000	98-2000
5-13-9-3	Amended	1	07/01/2000	134-2000
5-13-10.5-9	Amended	2	07/01/2000	134-2000
5-13-12-2.5	New	1	07/01/2000	141-2000
5-14-1.5-6.1	Amended	1	07/01/2000	37-2000
5-14-3-4	Amended	2	07/01/2000	37-2000
5-20-5	New	1	07/01/2000	115-2000

Title 6

6-1.1-10-15	Amended	3	01/01/2001	126-2000
6-1.1-10-16	Amended	4	01/01/2000	126-2000
6-1.1-10-16.7	New	1	01/01/2001	19-2000
6-1.1-11-4	Amended	15	03/15/2000	14-2000
6-1.1-12-8	Repealed	30	07/01/2000	98-2000
6-1.1-12.1-1	Amended	1	07/01/2000	4-2000
6-1.1-12.1-2	Amended	2	07/01/2000	4-2000
6-1.1-12.1-2.5	Amended	3	07/01/2000	4-2000
6-1.1-12.1-3	Amended	4	07/01/2000	4-2000
6-1.1-12.1-3	Amended	5	07/01/2000	126-2000
6-1.1-12.1-4	Amended	5	07/01/2000	4-2000
6-1.1-12.1-4.5	Amended	6	07/01/2000	4-2000
6-1.1-12.1-4.6	New	6	03/17/2000	126-2000
6-1.1-12.1-4.7	New	7	01/01/1998	126-2000
6-1.1-12.1-5	Amended	7	07/01/2000	4-2000
6-1.1-12.1-5.5	Amended	8	07/01/2000	4-2000
6-1.1-12.1-5.6	Amended	9	07/01/2000	4-2000
6-1.1-12.1-5.8	Amended	10	07/01/2000	4-2000
6-1.1-12.1-8	Amended	11	07/01/2000	4-2000
6-1.1-12.1-11.3	Amended	12	07/01/2000	4-2000
6-1.1-17-5	Amended	1	07/01/2000	96-2000
6-1.1-17-5.1	Repealed	8	07/01/2000	96-2000

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Affected Provisions	Type	SEC.	Effective	P.L.
6-1.1-18.5-10.4	Amended	1	01/01/2001	36-2000
6-1.1-24-5.3	New	4	07/01/2000	98-2000
6-1.1-29-4	Amended	3	07/01/2000	50-2000
6-1.1-42-10	Amended	2	07/01/2000	96-2000
6-1.1-42-20	Amended	3	07/01/2000	96-2000
6-3-1-3.5	Amended	16	01/01/1999	14-2000
6-3-1-11	Amended	1	01/01/1999	2-2000
6-3-3-10	Amended	17	03/15/2000	14-2000
6-3-1-4-6	Amended	13	12/30/1999	4-2000
6-3-1-7-2	Amended	2	01/01/2000	73-2000
6-3-1-13-27	New	1	03/16/2000	114-2000
6-3-5-7-12	Amended	18	01/01/2000	14-2000
6-4.1-10-3	Amended	5	07/01/2000	98-2000
6-5.5-2-1	Amended	1	01/01/1999	6-2000
6-5.5-2-2	Repealed	5	01/01/1999	6-2000
6-5.5-2-3	Amended	2	01/01/1999	6-2000
6-5.5-2-4	Amended	3	01/01/1999	6-2000
6-5.5-2-5	Repealed	5	01/01/1999	6-2000
6-5.5-2-5.3	Repealed	5	01/01/1999	6-2000
6-5.5-4-1	Amended	4	01/01/1999	6-2000
6-6-5-5-2	Amended	19	03/15/2000	14-2000
6-6-5-5-7	Amended	20	03/15/2000	14-2000
6-6-5-5-19	Amended	21	03/15/2000	14-2000
6-8.1-3-16	Amended	2	07/01/2001	57-2000
6-9-23-3	Amended	1	02/24/2000	8-2000
6-9-23-8	Amended	2	02/24/2000	8-2000
6-9-32-3	Amended	22	03/15/2000	14-2000
6-9-32-4	Amended	23	03/15/2000	14-2000
6-9-33	New	3	02/24/2000	8-2000

Title 7.1

7.1-3-1-14	Amended	1	03/17/2000	136-2000
7.1-3-1-25	Amended	2	07/01/2000	136-2000
7.1-3-12-3	Amended	24	03/15/2000	14-2000
7.1-3-18-9	Amended	1	07/01/2000	125-2000
7.1-3-18-11	Amended	2	07/01/2000	125-2000
7.1-3-20-24	Amended	3	03/17/2000	136-2000
7.1-3-23-7	Amended	3	07/01/2000	125-2000
7.1-5-7-11	Amended	1	07/01/2000	117-2000
7.1-5-8-4	Amended	4	03/17/2000	136-2000

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Affected Provisions	Type	SEC.	Effective	P.L.
7.1-5-8-5	Amended	5	03/17/2000 . . .	136-2000
7.1-5-10-15	Amended	4	07/01/2000 . . .	125-2000

Title 8

8-1-5-1	Amended	3	07/01/2001 . . .	57-2000
8-1-17-7	Amended	25	03/15/2000 . . .	14-2000
8-1-31	New	1	07/01/2000 . . .	94-2000
8-1-32	New	2	07/01/2000 . . .	94-2000
8-2.1-24-18	Amended	1	07/01/2000 . . .	92-2000
8-3-22	New	1	07/01/2000 . . .	131-2000
8-9-11	New	1	07/01/2000 . . .	109-2000
8-14-1-5	Amended	1	07/01/2000 . . .	61-2000
8-15-3-27	Amended	1	07/01/2000 . . .	40-2000
8-17-1-45	Amended	7	07/01/2000 . . .	98-2000
8-22-2-4	Amended	1	07/01/2000 . . .	137-2000
8-22-3-9	Amended	2	07/01/2000 . . .	137-2000

Title 9

9-13-1-4	Amended	14	07/01/2000 . . .	122-2000
9-13-2-2.4	New	2	11/19/1999 . . .	1-2000
9-13-2-131	Amended	3	11/19/1999 . . .	1-2000
9-13-2-151	Amended	4	11/19/1999 . . .	1-2000
9-14-3.5-4	Amended	1	07/01/2000 . . .	39-2000
9-14-3.5-5	Amended	2	07/01/2000 . . .	39-2000
9-14-3.5-7	Amended	3	07/01/2000 . . .	39-2000
9-14-3.5-9	Repealed	27	07/01/2000 . . .	32-2000
9-14-3.5-10	Amended	4	07/01/2000 . . .	39-2000
9-14-3.5-11	Amended	5	07/01/2000 . . .	39-2000
9-14-3.5-13	Amended	6	07/01/2000 . . .	39-2000
9-17-6-6	Amended	4	07/01/2001 . . .	57-2000
9-18-2-16	Amended	1	07/01/2000 . . .	63-2000
9-18-4-7	Amended	1	01/01/2001 . . .	29-2000
9-20-3-2	Amended	1	07/01/2000 . . .	79-2000
9-20-3-4	Amended	2	07/01/2000 . . .	79-2000
9-20-5-4	Amended	3	07/01/2000 . . .	79-2000
9-20-6-6	Amended	4	07/01/2000 . . .	79-2000
9-21-5-13	Amended	1	07/01/2000 . . .	42-2000
9-21-8-35	Amended	7	07/01/2000 . . .	39-2000
9-21-8-54	Amended	8	07/01/2000 . . .	39-2000
9-23-2-10	Amended	9	07/01/2000 . . .	39-2000

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Affected Provisions	Type	SEC.	Effective	P.L.
9-24-2-3.1	Amended	26	03/15/2000	14-2000
9-24-6-15	Amended	5	11/19/1999	1-2000
9-24-9-2	Amended	10	01/01/2001	39-2000
9-24-11-5	Amended	11	01/01/2001	39-2000
9-24-13-4	Amended	12	01/01/2001	39-2000
9-24-14-3	Amended	13	01/01/2001	39-2000
9-24-15-6.5	Amended	1	07/01/2000	10-2000
9-24-16-2	Amended	14	01/01/2001	39-2000
9-24-16-3	Amended	15	01/01/2001	39-2000
9-24-17-1	Amended	2	01/01/2001	29-2000
9-24-17-2	Amended	3	01/01/2001	29-2000
9-24-17-7	Amended	4	01/01/2001	29-2000
9-24-17-8	Amended	5	01/01/2001	29-2000
9-24-17-11	Repealed	9	07/01/2000	29-2000
9-24-18-5	Repealed	27	07/01/2000	32-2000
9-24-19	New	1	07/01/2000	32-2000
9-30-5-1	Amended	6	11/19/1999	1-2000
9-30-5-1	Amended	7	07/01/2000	1-2000
9-30-5-4	Amended	8	11/19/1999	1-2000
9-30-5-5	Amended	9	11/19/1999	1-2000
9-30-5-5	Amended	1	07/01/2000	120-2000
9-30-5-8.5	Amended	10	11/19/1999	1-2000
9-30-5-15	Amended	2	07/01/2000	32-2000
9-30-6-15	Amended	11	11/19/1999	1-2000
9-30-8-2	Amended	12	11/19/1999	1-2000
9-30-10-4	Amended	13	11/19/1999	1-2000
9-30-10-4	Amended	3	07/01/2000	32-2000
9-30-10-9	Amended	2	07/01/2000	10-2000
9-30-10-16	Amended	2	07/01/2000	120-2000
9-30-15-3	Amended	14	11/19/1999	1-2000
9-31-2-24	Amended	5	07/01/2001	57-2000

Title 10

10-1-1-28	New	1	03/15/2000	69-2000
10-2-4-3	Amended	1	07/01/2000	33-2000
10-7-13-2	New	1	07/01/2000	35-2000

Title 11

11-8-1-5	Amended	1	03/15/2000	90-2000
11-8-2-8	Amended	2	07/01/2000	25-2000

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Affected Provisions	Type	SEC.	Effective	P.L.
11-10-8-9	New	2	03/15/2000	90-2000
11-10-11.5-1	Amended	3	03/15/2000	90-2000
11-10-11.5-2	Amended	4	03/15/2000	90-2000
11-10-11.5-3.5	New	5	03/15/2000	90-2000
11-10-11.5-3.6	New	6	03/15/2000	90-2000
11-10-11.5-4	Amended	7	03/15/2000	90-2000
11-10-11.5-4.5	New	8	03/15/2000	90-2000
11-10-11.5-5	Amended	9	03/15/2000	90-2000
11-10-11.5-6	Amended	10	03/15/2000	90-2000
11-10-11.5-8	Amended	11	03/15/2000	90-2000
11-10-11.5-9	Amended	12	03/15/2000	90-2000
11-10-11.5-11.5	New	13	03/15/2000	90-2000
11-10-11.5-12	Amended	14	03/15/2000	90-2000
11-10-11.5-13	Repealed	25	03/15/2000	90-2000
11-10-11.5-14	New	15	03/15/2000	90-2000
11-12-1-2.5	Amended	4	07/01/2000	32-2000
11-12-8-1	Amended	5	07/01/2000	32-2000
11-12-10-2.5	New	16	03/15/2000	90-2000
11-14-4-3	Amended	6	07/01/2000	32-2000

Title 12

12-7-1-3	New	15	07/01/2000	122-2000
12-7-2-76.5	Amended	1	07/01/2000	95-2000
12-7-2-91	Amended	27	01/01/2000	14-2000
12-7-2-110	Amended	1	03/17/2000	142-2000
12-7-2-149	Amended	28	01/01/2000	14-2000
12-8-1-10	Amended	1	06/30/1999	7-2000
12-8-1-14	New	2	06/30/1999	7-2000
12-8-2-12	Amended	3	06/30/1999	7-2000
12-8-6-10	Amended	4	06/30/1999	7-2000
12-8-8-8	Amended	5	06/30/1999	7-2000
12-10-16	New	8	09/01/2000	21-2000
12-11-2.1-3	Amended	29	03/15/2000	14-2000
12-13-5-2	Amended	7	07/01/2000	32-2000
12-14-15-1	Amended	1	01/01/2001	67-2000
12-15-2.2-3	Amended	1	07/01/1999	113-2000
12-15-4-4	Amended	2	07/01/2000	67-2000
12-15-11.5	New	2	03/17/2000	142-2000
12-15-15-1.1	Amended	2	07/01/1999	113-2000
12-15-15-9	Amended	3	07/01/1999	113-2000
12-15-15-10	New	4	07/01/1994	113-2000

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Affected Provisions	Type	SEC.	Effective	P.L.
12-15-16-1	Amended	5	07/01/1999	113-2000
12-15-16-2	Amended	6	07/01/1999	113-2000
12-15-16-3	Amended	7	07/01/1999	113-2000
12-15-16-6	Amended	8	07/01/1998	113-2000
12-15-17-1	Amended	9	07/01/1999	113-2000
12-15-18-5.1	Amended	10	07/01/1999	113-2000
12-15-19-1	Amended	11	07/01/1997	113-2000
12-15-19-2.1	New	12	07/01/1999	113-2000
12-15-19-5	Amended	13	07/01/1999	113-2000
12-15-19-6	Amended	14	07/01/1999	113-2000
12-15-19-8	Amended	15	07/01/1997	113-2000
12-15-19-9	Amended	16	07/01/1997	113-2000
12-15-19-10	Amended	17	07/01/1999	113-2000
12-15-19-10.1	New	18	07/01/1998	113-2000
12-15-20-2	Amended	19	07/01/1999	113-2000
12-15-37-6	Amended	30	03/15/2000	14-2000
12-17-2-33	Amended	6	07/01/2001	57-2000
12-17-15-13	Amended	31	03/15/2000	14-2000
12-17-15-18	Amended	32	03/15/2000	14-2000
12-17.6-1-2.6	New	2	07/01/2000	95-2000
12-17.6-4-3	Amended	3	07/01/2000	95-2000
12-19-7-1	Amended	1	07/01/2000	139-2000
12-19-7-1.5	New	2	07/01/2000	139-2000
12-20-20-1	Amended	1	01/01/2001	101-2000
12-20-20-2	Amended	2	01/01/2001	101-2000
12-20-20-3	Repealed	11	01/01/2001	101-2000
12-20-21-1	Repealed	11	01/01/2001	101-2000
12-20-21-3	Amended	3	01/01/2001	101-2000
12-20-21-4	Amended	4	01/01/2001	101-2000
12-20-21-5	Amended	5	01/01/2001	101-2000
12-20-22-2	Amended	6	01/01/2001	101-2000
12-20-22-4	Repealed	11	01/01/2001	101-2000
12-20-23-5	Amended	7	01/01/2001	101-2000
12-20-24-1	Amended	8	01/01/2001	101-2000
12-20-24-5	Amended	9	01/01/2001	101-2000
12-20-24-8	Amended	10	01/01/2001	101-2000
12-24-1-8	New	1	07/01/2000	108-2000
12-24-1-9	New	2	07/01/2000	108-2000
12-26-2-5	Amended	33	03/15/2000	14-2000
12-29-1-7	Amended	20	07/01/1999	113-2000

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Affected Provisions	Type	SEC.	Effective	P.L.
Title 13				
13-11-2-1.5	New	1	01/01/2002	143-2000
13-11-2-31.3	New	1	03/17/2000	140-2000
13-11-2-31.4	New	2	03/17/2000	140-2000
13-11-2-31.5	New	3	03/17/2000	140-2000
13-11-2-31.6	New	4	03/17/2000	140-2000
13-11-2-43.5	New	5	03/17/2000	140-2000
13-11-2-50.5	New	6	03/17/2000	140-2000
13-11-2-72.5	New	7	03/17/2000	140-2000
13-11-2-85.7	New	8	03/17/2000	140-2000
13-11-2-109.5	New	1	07/01/2000	138-2000
13-11-2-113.5	New	9	03/17/2000	140-2000
13-11-2-116	Amended	34	03/15/2000	14-2000
13-11-2-120.5	New	10	03/17/2000	140-2000
13-11-2-133	Amended	2	07/01/2000	138-2000
13-11-2-149.5	New	11	03/17/2000	140-2000
13-11-2-149.6	New	12	03/17/2000	140-2000
13-11-2-177.3	Amended	35	03/15/2000	14-2000
13-11-2-177.5	New	1	03/16/2000	112-2000
13-11-2-208	Amended	3	07/01/2000	138-2000
13-11-2-215	Repealed	11	07/01/2000	138-2000
13-11-2-215.1	Repealed	11	07/01/2000	138-2000
13-11-2-237.5	New	1	09/01/2000	132-2000
13-11-2-242.3	New	2	03/16/2000	112-2000
13-11-2-242.5	New	13	03/17/2000	140-2000
13-11-2-253	Amended	4	07/01/2000	138-2000
13-11-2-265.3	New	15	03/17/2000	140-2000
13-11-2-265.5	New	14	03/17/2000	140-2000
13-14-12-1	Amended	2	01/01/2001	143-2000
13-15-4-1	Amended	5	07/01/2000	138-2000
13-15-7-1	Amended	36	03/15/2000	14-2000
13-18-2-3	New	16	03/17/2000	140-2000
13-18-3-2	Amended	17	07/01/2000	140-2000
13-18-3-2.3	New	18	03/17/2000	140-2000
13-18-3-2.4	New	19	03/17/2000	140-2000
13-18-3-2.5	New	20	03/17/2000	140-2000
13-18-3-14	New	21	03/17/2000	140-2000
13-18-11-1	Amended	2	09/01/2000	132-2000
13-18-11-1.5	New	3	09/01/2000	132-2000
13-18-11-6	Amended	4	09/01/2000	132-2000
13-18-11-6.5	New	5	09/01/2000	132-2000

Table of Citations Affected

Affected Provisions	Type	SEC.	Effective	P.L.
13-18-11-7	Amended	6	09/01/2000	132-2000
13-18-11-7.5	New	7	09/01/2000	132-2000
13-18-11-8	Amended	8	09/01/2000	132-2000
13-18-11-10	Amended	9	09/01/2000	132-2000
13-18-11-10.5	New	10	09/01/2000	132-2000
13-18-12-8	New	3	03/16/2000	112-2000
13-18-19-2	New	22	03/17/2000	140-2000
13-19-3-7	Amended	37	03/15/2000	14-2000
13-20-1-1	Amended	6	07/01/2000	138-2000
13-20-4-8	Amended	7	07/01/2000	138-2000
13-20-7	Repealed	11	07/01/2000	138-2000
13-20-7.5	New	8	07/01/2000	138-2000
13-20-21-5	Repealed	11	07/01/2000	138-2000
13-20-21-6	Amended	9	07/01/2000	138-2000
13-21-3-12.2	New	6	07/01/2000	98-2000
13-22-4-1	Amended	3	01/01/2001	143-2000
13-22-4-2	Amended	4	01/01/2001	143-2000
13-22-4-3	Repealed	8	01/01/2001	143-2000
13-22-4-3.1	New	5	01/01/2002	143-2000
13-22-4-4	Repealed	8	01/01/2001	143-2000
13-22-4-5	Repealed	8	01/01/2001	143-2000
13-22-5-6	Amended	6	01/01/2001	143-2000
13-22-5-7	Amended	7	01/01/2001	143-2000
13-22-12-4	Repealed	8	01/01/2001	143-2000
13-26-2-6	Amended	1	03/16/2000	106-2000
13-30-6-1	Amended	4	07/01/2000	112-2000
13-30-6-3	Amended	5	07/01/2000	112-2000

Title 14

14-8-2-13.5	New	1	07/01/2000	46-2000
14-8-2-30	Amended	2	07/01/2000	46-2000
14-8-2-37.5	New	3	07/01/2000	46-2000
14-8-2-68.5	New	4	07/01/2000	46-2000
14-8-2-127	Amended	5	07/01/2000	46-2000
14-8-2-129	Amended	1	07/01/2000	38-2000
14-8-2-219	Amended	6	07/01/2000	46-2000
14-13-5-16	Amended	1	07/01/2000	116-2000
14-15-2-6	Amended	2	07/01/2000	38-2000
14-15-3-17	Amended	3	07/01/2000	38-2000
14-15-7-3	Amended	4	07/01/2000	38-2000
14-15-8-5	Amended	15	11/19/1999	1-2000

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Affected Provisions	Type	SEC.	Effective	P.L.
14-15-8-6	Amended	16	11/19/1999	1-2000
14-15-8-8	Amended	17	11/19/1999	1-2000
14-15-11-11	Amended	8	07/01/2000	32-2000
14-15-12-8	Amended	5	07/01/2000	38-2000
14-21-1-8	Amended	7	07/01/2000	46-2000
14-21-1-13.5	New	8	07/01/2000	46-2000
14-21-1-25	Amended	9	07/01/2000	46-2000
14-21-1-26.5	New	10	07/01/2000	46-2000
14-21-1-27	Amended	38	03/15/2000	14-2000
14-21-3	New	11	07/01/2000	46-2000
14-22-11-8	Amended	1	07/01/2000	84-2000
14-22-11-10	Amended	1	07/01/2000	77-2000
14-22-11-15	Amended	39	03/15/2000	14-2000
14-22-12-1	Amended	40	03/15/2000	14-2000
14-26-2-23	New	1	07/01/2000	64-2000

Title 15

15-1-1.5-0.5	New	1	03/16/2000	99-2000
15-1-1.5-8	Amended	2	03/16/2000	99-2000
15-1-1.5-9	Amended	3	03/16/2000	99-2000
15-1.5-3-9	Amended	41	03/15/2000	14-2000
15-1.5-3-9	Amended	4	07/01/2000	99-2000
15-1.5-10.5-12	New	5	03/16/2000	99-2000
15-5-1.1-2	Amended	1	07/01/2000	71-2000
15-5-1.1-8	Amended	2	07/01/2000	71-2000
15-5-1.1-9	Amended	3	07/01/2000	71-2000
15-5-1.1-11	Amended	4	07/01/2000	71-2000
15-5-1.1-12	Amended	5	07/01/2000	71-2000
15-5-1.1-15.1	Amended	9	07/01/2000	32-2000
15-5-1.1-19	Amended	6	07/01/2000	71-2000
15-5-1.1-23	Amended	7	07/01/2000	71-2000
15-5-1.1-25	Amended	8	07/01/2000	71-2000
15-5-1.1-26	Amended	9	07/01/2000	71-2000
15-5-1.1-27	Amended	10	07/01/2000	71-2000
15-5-1.1-28	Amended	11	07/01/2000	71-2000
15-5-1.1-29	Amended	12	07/01/2000	71-2000
15-5-1.1-30	Amended	13	07/01/2000	71-2000
15-5-1.1-31	Amended	14	07/01/2000	71-2000
15-5-1.1-33	Amended	15	07/01/2000	71-2000
15-5-1.1-34	Amended	16	07/01/2000	71-2000
15-5-1.1-35	Amended	17	07/01/2000	71-2000

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Affected Provisions	Type	SEC.	Effective	P.L.
15-5-5.5-4	Amended	42	03/15/2000	14-2000
15-6-4	New	1	01/01/2000	105-2000

Title 16

16-18-1-3	New	16	07/01/2000	122-2000
16-18-2-143	Amended	43	03/15/2000	14-2000
16-18-2-167	Amended	1	03/15/2000	58-2000
16-19-3-26	Amended	2	07/01/2000	63-2000
16-19-6-12	New	3	07/01/2000	108-2000
16-19-6-13	New	4	07/01/2000	108-2000
16-21-1-1	Amended	1	07/01/2000	13-2000
16-25-1.1-3	Amended	2	03/15/2000	58-2000
16-25-1.1-4	Amended	3	03/15/2000	58-2000
16-25-1.1-8	Amended	4	03/15/2000	58-2000
16-25-3-1	Amended	5	03/15/2000	58-2000
16-28-2-8	New	5	07/01/2000	108-2000
16-28-2-9	New	6	07/01/2000	108-2000
16-28-13-0.5	Amended	44	03/15/2000	14-2000
16-28-13-1	Amended	45	03/15/2000	14-2000
16-31-2-2	Amended	1	07/01/2000	110-2000

Title 20

20-1-1-6.3	Amended	46	03/15/2000	14-2000
20-1-1.2-6	Amended	47	03/15/2000	14-2000
20-3-21-1	Amended	35	03/15/2000	26-2000
20-3-21-9	Amended	17	03/17/2000	122-2000
20-3-21-11	New	36	03/15/2000	26-2000
20-3-22-9	Amended	18	07/01/2000	122-2000
20-3.1-6-5	Amended	48	03/15/2000	14-2000
20-4-1-7	Amended	37	07/01/2000	26-2000
20-4-1-21	Amended	38	07/01/2000	26-2000
20-4-3-1	Amended	19	07/01/2000	122-2000
20-4-8-12	Amended	39	07/01/2000	26-2000
20-4-10.1-1	Amended	40	03/15/2000	26-2000
20-5-2.5-4	Amended	49	03/15/2000	14-2000
20-5-4-1.5	New	1	07/01/2000	16-2000
20-5-4-1.5	Repealed	2	12/02/2000	16-2000
20-5-6-9	New	1	07/01/2000	17-2000
20-5-7-0.5	New	1	07/01/2000	72-2000
20-5-7-1	Amended	2	07/01/2000	72-2000

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Affected Provisions	Type	SEC.	Effective	P.L.
20-5-63	New	1	07/01/2000	15-2000
20-6.1-3-7	Amended	3	07/01/2000	37-2000
20-6.1-3-10.1	Amended	1	07/01/2001	135-2000
20-8.1-3-17.5	Amended	1	07/01/2000	34-2000
20-9.1-4-4.5	New	1	01/01/2001	51-2000
20-10.1-26-4	Amended	50	03/15/2000	14-2000
20-10.1-29-0.5	New	1	07/01/2000	81-2000
20-10.1-29-2	Amended	2	07/01/2000	81-2000
20-10.1-29-3	Amended	3	07/01/2000	81-2000
20-10.1-29-4	New	4	07/01/2000	81-2000
20-12-19-1	Amended	1	08/01/2000	52-2000
20-12-19-2	New	2	08/01/2000	52-2000
20-12-19.5-1	Amended	3	08/01/2000	52-2000
20-12-19.5-2	New	4	08/01/2000	52-2000
20-12-21.2-9	Amended	7	07/01/2001	57-2000
20-12-61-2	Amended	1	03/17/2000	130-2000
20-12-61-4	Amended	1	03/07/2000	20-2000
20-12-74-7	Amended	5	07/01/2000	52-2000
20-14-1-8	New	8	07/01/2000	98-2000
20-14-2.5-4	Amended	4	07/01/2000	50-2000
20-14-2.5-9.5	New	5	07/01/2000	50-2000
20-14-2.5-12	Amended	6	07/01/2000	50-2000
20-14-3-10	Amended	8	07/01/2000	50-2000

Title 21

21-1-1-16	Amended	41	07/01/2000	26-2000
21-1-1-17	Amended	42	07/01/2000	26-2000
21-1-1-25	Amended	43	07/01/2000	26-2000
21-1-1-44	Amended	44	07/01/2000	26-2000
21-1-30-2	Amended	1	01/01/2000	3-2000
21-1-30-3	Amended	2	01/01/2000	3-2000
21-1-30-3.1	Repealed	16	01/01/2000	3-2000
21-1-30-3.2	Repealed	16	01/01/2000	3-2000
21-1-30-3.3	Repealed	16	01/01/2000	3-2000
21-1-30-4	Repealed	16	01/01/2000	3-2000
21-1-30-5	Repealed	16	01/01/2000	3-2000
21-1-30-5.5	New	3	01/01/2000	3-2000
21-1-30-6	Repealed	16	01/01/2000	3-2000
21-2-11-6.5	Amended	1	01/01/2000	86-2000
21-2-11.5-2	Amended	4	01/01/2001	96-2000
21-2-11.5-3	Amended	5	01/01/2001	96-2000

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Affected Provisions	Type	SEC.	Effective	P.L.
21-2-11.5-3.1 . . .	Amended	6	07/01/2000	96-2000
21-2-12-3	Amended	4	01/01/2001	3-2000
21-2-12-3.1	Repealed	14	01/01/2001	3-2000
21-2-12-4.1	Amended	5	01/01/2001	3-2000
21-2-12-6.1	Amended	6	01/01/2001	3-2000
21-2-15-5	Amended	7	07/01/2000	96-2000
21-2-18-4	Amended	2	01/01/2000	86-2000
21-3-1.6-1.1	Amended	1	07/01/2000	93-2000
21-3-1.6-1.2	New	2	01/01/2000	93-2000
21-3-1.6-3	Repealed	14	01/01/2001	3-2000
21-3-1.6-3.2	Repealed	14	01/01/2001	3-2000
21-3-1.6-3.3	New	7	01/01/2001	3-2000
21-3-1.6-3.4	New	8	01/01/2001	3-2000
21-3-1.7-3.1	Amended	9	01/01/2001	3-2000
21-3-1.7-8	Amended	10	01/01/2000	3-2000
21-3-1.7-9	Amended	3	01/01/2000	93-2000
21-3-1.7-9.5	Amended	4	01/01/2000	93-2000
21-3-1.8-3	Amended	11	01/01/2001	3-2000
21-3-1.8-3	Repealed	13	01/01/2002	3-2000
21-3-1.8-6	Amended	1	12/31/1999	18-2000
21-3-1.9	New	2	03/07/2000	18-2000
21-3-12-1	Amended	51	03/15/2000	14-2000
21-3-12-2	Amended	12	01/01/2001	3-2000
21-6.1-3-6	Amended	6	07/01/2000	119-2000
21-6.1-3-7	Amended	7	07/01/2000	119-2000
21-9-1-1	Amended	1	07/01/2000	85-2000
21-9-2-11	Amended	2	07/01/2000	85-2000
21-9-2-20	Repealed	6	07/01/2000	85-2000
21-9-2-21	Repealed	6	07/01/2000	85-2000
21-9-3-3	Amended	3	07/01/2000	85-2000
21-9-5-1	Amended	4	07/01/2000	85-2000
21-9-5-2	Amended	5	07/01/2000	85-2000
21-9-5-3	Repealed	6	07/01/2000	85-2000
21-9-6	Repealed	6	07/01/2000	85-2000

Title 22

22-3-2-13	Amended	1	07/01/2000	31-2000
22-3-3-4	Amended	2	07/01/2000	31-2000
22-3-3-10	Amended	3	07/01/2000	31-2000
22-3-3-22	Amended	4	07/01/2000	31-2000
22-3-4-12.1	Amended	5	07/01/2000	31-2000

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Affected Provisions	Type	SEC.	Effective	P.L.
22-3-6-1	Amended	6	07/01/2000	31-2000
22-3-7-9	Amended	7	07/01/2000	31-2000
22-3-7-16	Amended	8	07/01/2000	31-2000
22-3-7-17	Amended	9	07/01/2000	31-2000
22-3-7-19	Amended	10	07/01/2000	31-2000
22-4-4-3	Amended	1	07/01/2000	30-2000
22-4-11-3	Amended	2	07/01/2000	30-2000
22-4-11-3.2	New	3	07/01/2000	30-2000

Title 23

23-1.5-1-9	Amended	1	07/01/2000	82-2000
23-2-1-1	Amended	1	03/17/2000	128-2000
23-2-5-3	Amended	52	03/15/2000	14-2000
23-2-5-10	Amended	53	03/15/2000	14-2000
23-18-6-3.1	Amended	54	03/15/2000	14-2000

Title 24

24-3-2-10	Amended	9	03/13/2000	21-2000
24-3-4	New	10	03/13/2000	21-2000
24-4.5-1-102	Amended	1	03/15/2000	23-2000
24-4.5-1-301	Amended	2	07/01/2000	23-2000
24-4.5-2-104	Amended	3	07/01/2000	23-2000
24-4.5-2-209	Amended	5	07/01/2000	23-2000
24-4.5-3-105	Amended	4	07/01/2000	23-2000
24-4.5-3-209	Amended	6	07/01/2000	23-2000
24-4.5-3-502	Amended	7	07/01/2000	23-2000
24-4.5-3-503	Amended	8	07/01/2000	23-2000
24-4.5-5-204	Amended	9	07/01/2000	23-2000
24-5-0.5-3	Amended	11	03/13/2000	21-2000
24-5-0.5-12	Amended	1	03/01/2000	12-2000
24-5-16-7	Amended	8	07/01/2001	57-2000
24-5-16-8	Amended	9	07/01/2001	57-2000
24-7-1-2	Amended	10	07/01/2001	57-2000

Title 25

25-1-2-6	Amended	2	07/01/2000	82-2000
25-1-5-4	Amended	1	07/01/2000	44-2000
25-1-6-3	Amended	3	07/01/2000	82-2000
25-1-7-1	Amended	4	07/01/2000	82-2000

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Affected Provisions	Type	SEC.	Effective	P.L.
25-1-7-5	Amended	55	03/15/2000	14-2000
25-1-8-1	Amended	5	07/01/2000	82-2000
25-1-9-9	Amended	10	07/01/2000	32-2000
25-1-9-10	Amended	18	07/01/2000	71-2000
25-1-9-16	Amended	11	07/01/2000	32-2000
25-1-11-1	Amended	6	07/01/2000	82-2000
25-1-11-12	Amended	12	07/01/2000	32-2000
25-2.5-2-4	Amended	56	03/15/2000	14-2000
25-4-1-2	Amended	7	07/01/2000	82-2000
25-4-1-3	Amended	8	07/01/2000	82-2000
25-4-1-4	Amended	9	07/01/2000	82-2000
25-4-1-22	Amended	10	07/01/2000	82-2000
25-4-1-25	Amended	11	07/01/2000	82-2000
25-4-1-28	Amended	12	07/01/2000	82-2000
25-4-2-1	Amended	13	07/01/2000	82-2000
25-4-2-1.5	New	14	07/01/2000	82-2000
25-4-2-3	Amended	15	07/01/2000	82-2000
25-4-2-6	Amended	16	07/01/2000	82-2000
25-4-2-7	Repealed	19	07/01/2000	82-2000
25-4-2-10	Amended	17	07/01/2000	82-2000
25-4-2-11	Amended	18	07/01/2000	82-2000
25-5.1-1-0.5	New	1	07/01/2000	87-2000
25-5.1-3-1	Amended	2	07/01/2000	87-2000
25-5.1-3-3	Amended	3	07/01/2000	87-2000
25-5.1-3-6	Amended	4	07/01/2000	87-2000
25-5.1-3-7	Amended	5	07/01/2000	87-2000
25-5.1-4-1	Amended	6	07/01/2000	87-2000
25-5.1-4-2	Amended	7	07/01/2000	87-2000
25-13-1-8	Amended	2	07/01/2000	44-2000
25-14-1-1	Amended	1	07/01/2001	102-2000
25-14-1-10	Amended	3	07/01/2000	44-2000
25-14-1-23	Amended	2	07/01/2001	102-2000
25-20.5-1-4	Amended	1	07/01/2000	75-2000
25-20.5-1-7	Amended	2	07/01/2000	75-2000
25-20.5-1-11	Amended	3	07/01/2000	75-2000
25-20.5-1-24	New	4	07/01/2000	75-2000
25-22.5-5-2.5	Amended	13	07/01/2000	32-2000
25-23-1-19.5	Amended	1	07/01/2000	83-2000
25-23-1-19.7	New	2	07/01/2000	83-2000
25-23.5-5-8	Amended	14	07/01/2000	32-2000
25-27.5-4-3	Amended	15	07/01/2000	32-2000
25-34.5-1-2	Amended	1	07/01/2001	60-2000

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Affected Provisions	Type	SEC.	Effective	P.L.
25-34.5-1-2.5	New	2	07/01/2001	60-2000
25-34.5-1-4.7	New	3	07/01/2001	60-2000
25-34.5-1-6	Amended	4	07/01/2001	60-2000
25-34.5-1-7	Amended	5	07/01/2001	60-2000
25-34.5-1-8	New	6	07/01/2001	60-2000
25-34.5-1-9	New	7	07/01/2001	60-2000
25-34.5-2-6	Amended	8	07/01/2001	60-2000
25-34.5-2-6.1	New	9	07/01/2001	60-2000
25-34.5-2-6.2	New	10	07/01/2001	60-2000
25-34.5-2-6.3	New	11	07/01/2001	60-2000
25-34.5-2-6.4	New	12	07/01/2001	60-2000
25-34.5-2-7	Amended	13	07/01/2001	60-2000
25-34.5-2-8	Amended	14	07/01/2001	60-2000
25-34.5-2-9	Amended	15	07/01/2001	60-2000
25-34.5-2-10	Amended	16	07/01/2001	60-2000
25-34.5-2-10.1	Amended	17	07/01/2001	60-2000
25-34.5-2-11	Amended	18	07/01/2001	60-2000
25-34.5-2-12	Amended	19	07/01/2001	60-2000
25-34.5-2-14	New	20	07/01/2001	60-2000
25-34.5-3-1	Amended	21	07/01/2001	60-2000
25-34.5-3-2	Amended	22	07/01/2001	60-2000
25-34.5-3-3	New	23	07/01/2001	60-2000
25-34.5-3-4	New	24	07/01/2001	60-2000
25-34.5-3-5	New	25	07/01/2001	60-2000
25-34.5-3-6	New	26	07/01/2001	60-2000
25-34.5-3-7	New	27	07/01/2001	60-2000
25-34.5-3-8	New	28	07/01/2001	60-2000

Title 26

26-1-1-105	Amended	11	07/01/2001	57-2000
26-1-1-201	Amended	12	07/01/2001	57-2000
26-1-1-206	Amended	13	07/01/2001	57-2000
26-1-1.5	New	14	07/01/2001	57-2000
26-1-2-103	Amended	15	07/01/2001	57-2000
26-1-2-210	Amended	16	07/01/2001	57-2000
26-1-2-326	Amended	17	07/01/2001	57-2000
26-1-2-401	Amended	18	07/01/2001	57-2000
26-1-2-402	Amended	19	07/01/2001	57-2000
26-1-2-403	Amended	20	07/01/2001	57-2000
26-1-2-502	Amended	21	07/01/2001	57-2000
26-1-2-716	Amended	22	07/01/2001	57-2000

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Affected Provisions	Type	SEC.	Effective	P.L.
26-1-2.1-103	Amended	23	07/01/2001	57-2000
26-1-2.1-303	Amended	24	07/01/2001	57-2000
26-1-2.1-307	Amended	25	07/01/2001	57-2000
26-1-2.1-309	Amended	26	07/01/2001	57-2000
26-1-3.1-102	Amended	27	07/01/2001	57-2000
26-1-3.1-605	Amended	28	07/01/2001	57-2000
26-1-4-210	Amended	29	07/01/2001	57-2000
26-1-5.1-114	Amended	30	07/01/2001	57-2000
26-1-5.1-116	Amended	31	07/01/2001	57-2000
26-1-5.1-118	New	32	07/01/2001	57-2000
26-1-6.1-102	Amended	33	07/01/2001	57-2000
26-1-6.1-103	Amended	34	07/01/2001	57-2000
26-1-6.1-109	Amended	35	07/01/2001	57-2000
26-1-7-209	Amended	36	07/01/2001	57-2000
26-1-7-503	Amended	37	07/01/2001	57-2000
26-1-8.1-103	Amended	38	07/01/2001	57-2000
26-1-8.1-105	Amended	39	07/01/2001	57-2000
26-1-8.1-106	Amended	40	07/01/2001	57-2000
26-1-8.1-110	Amended	41	07/01/2001	57-2000
26-1-8.1-301	Amended	42	07/01/2001	57-2000
26-1-8.1-302	Amended	43	07/01/2001	57-2000
26-1-8.1-510	Amended	44	07/01/2001	57-2000
26-1-9	Repealed	48	07/01/2001	57-2000
26-1-9.1	New	45	07/01/2001	57-2000
26-2-8	New	1	07/01/2000	62-2000

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27-1-2-3	Amended	1	07/01/2000	48-2000
27-1-7-19	Amended	1	03/16/2000	111-2000
27-1-13-3.5	Amended	1	01/01/2000	88-2000
27-1-15.5-3	Amended	2	01/01/2001	48-2000
27-1-15.5-7	Amended	3	07/01/2000	48-2000
27-1-15.5-7.1	Amended	4	01/01/2001	48-2000
27-1-15.5-7.7	Amended	5	01/01/2001	48-2000
27-1-15.5-25	New	6	07/01/2000	48-2000
27-1-20-21.3	Amended	57	03/15/2000	14-2000
27-8-5-19	Amended	58	03/15/2000	14-2000
27-8-14.1	New	2	07/01/2000	78-2000
27-8-14.8	New	2	07/01/2000	54-2000
27-8-19.8-6	Amended	2	03/17/2000	128-2000
27-9-1-1	Amended	1	12/01/1999	5-2000

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27-9-2-1	Amended	2	12/01/1999	5-2000
27-9-3-1	Amended	3	12/01/1999	5-2000
27-13-7-14.5	New	3	07/01/2000	78-2000
27-13-7-17	New	3	07/01/2000	54-2000
27-13-8-2	Amended	59	03/15/2000	14-2000
27-13-10.1-8	Amended	60	03/15/2000	14-2000
27-13-34-24	New	1	07/01/2000	91-2000
27-13-34-26	New	2	07/01/2000	91-2000
27-13-37-4	Amended	3	07/01/2000	91-2000
27-14	New	4	12/01/1999	5-2000
27-15-1-2	Amended	61	03/15/2000	14-2000
Title 28				
28-10-1-1	Amended	10	07/01/2000	23-2000
Title 29				
29-1-8-1	Amended	1	07/01/2000	59-2000
29-2-16-2	Amended	6	01/01/2001	29-2000
29-2-16-4	Amended	7	01/01/2001	29-2000
29-2-16-10	Amended	8	01/01/2001	29-2000
Title 30				
30-2-13-1	Amended	62	03/15/2000	14-2000
30-2-13-12.5	Amended	1	07/01/2000	76-2000
30-2-13-13	Amended	2	07/01/2000	76-2000
30-4-1-1	Amended	1	07/01/2000	41-2000
30-4-1-2	Amended	2	07/01/2000	41-2000
30-4-3-27	Amended	3	07/01/2000	41-2000
30-4-3-31	Amended	4	07/01/2000	41-2000
30-4-5-12	Amended	5	07/01/2000	41-2000
30-4-5-21	Amended	6	07/01/2000	41-2000
Title 31				
31-9-2-0.5	Amended	1	07/01/2000	133-2000
31-9-2-28	Amended	63	03/15/2000	14-2000
31-9-2-43.5	New	2	07/01/2000	133-2000
31-14-12-3	Amended	16	07/01/2000	32-2000
31-14-15-4	Amended	17	07/01/2000	32-2000

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31-16-10-1	Amended	3	07/01/2000	139-2000
31-16-12-6	Amended	18	07/01/2000	32-2000
31-16-17-1	Amended	4	07/01/2000	139-2000
31-17-4-8	Amended	19	07/01/2000	32-2000
31-34-2.5	New	3	07/01/2000	133-2000
31-34-10-2	Amended	4	07/01/2000	133-2000
31-34-10-2.5	New	5	07/01/2000	133-2000
31-34-21-4	Amended	6	07/01/2000	133-2000
31-34-21-4.5	New	7	07/01/2000	133-2000
31-34-21-5.6	Amended	8	07/01/2000	133-2000
31-34-21-7	Amended	64	03/15/2000	14-2000
31-35-2-6.5	Amended	9	07/01/2000	133-2000
31-37-5-7	New	20	07/01/2000	32-2000
31-37-19-5	Amended	21	07/01/2000	32-2000
31-37-19-17.3	New	22	07/01/2000	32-2000
31-37-19-18	Amended	23	07/01/2000	32-2000

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32-1-2-16.3	Amended	46	07/01/2001	57-2000
32-1-2-18	Amended	9	07/01/2000	98-2000
32-7-9-7	Amended	65	03/15/2000	14-2000
32-7-9-9	Amended	66	03/15/2000	14-2000
32-7-9-10	Amended	67	03/15/2000	14-2000
32-8-24-2	Amended	47	07/01/2001	57-2000
32-9-1.5-7.5	Amended	3	07/01/2000	127-2000
32-9-1.5-17	Amended	4	07/01/2000	127-2000
32-9-1.5-20	Amended	5	07/01/2000	127-2000
32-9-1.5-24	Amended	6	07/01/2000	127-2000
32-9-1.5-26	Amended	7	07/01/2000	127-2000
32-9-1.5-27	Amended	8	07/01/2000	127-2000
32-9-1.5-28	Amended	9	07/01/2000	127-2000
32-9-1.5-36	Amended	10	07/01/2000	127-2000
32-9-1.5-37	Amended	11	07/01/2000	127-2000
32-9-1.5-38	Repealed	19	07/01/2000	127-2000
32-9-1.5-38.1	New	12	07/01/2000	127-2000
32-9-1.5-39	Repealed	19	07/01/2000	127-2000
32-9-1.5-43	Amended	13	07/01/2000	127-2000
32-9-1.5-44	Amended	14	07/01/2000	127-2000
32-9-1.5-46	Amended	15	07/01/2000	127-2000
32-9-1.5-48	Amended	16	07/01/2000	127-2000

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32-9-1.5-54	New	17	07/01/2000 . . .	127-2000
32-9-8-2	Amended	18	01/01/2002 . . .	127-2000

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33-2.1-4-7	Amended	4	07/01/2000 . . .	37-2000
33-2.1-8-1	Amended	68	03/15/2000 . . .	14-2000
33-2.1-12-5	Amended	1	07/01/2000 . . .	107-2000
33-4-1-18	Amended	1	07/01/2000 . . .	124-2000
33-4-12	New	2	07/01/2000 . . .	124-2000
33-5-8.5	New	1	07/01/2000 . . .	45-2000
33-5-10.2	New	2	07/01/2000 . . .	45-2000
33-5-12.1	Repealed	5	07/01/2000 . . .	124-2000
33-5-18.1-3	Amended	3	03/17/2000 . . .	124-2000
33-5-25.3-5	Amended	4	07/01/2000 . . .	124-2000
33-5-37.8	New	3	07/01/2000 . . .	45-2000
33-5-38.8	New	4	07/01/2000 . . .	45-2000
33-5-44.1-1	Amended	5	07/01/2000 . . .	45-2000
33-5-44.1-27	Repealed	9	07/01/2000 . . .	45-2000
33-5-44.1-28	New	6	07/01/2000 . . .	45-2000
33-10.5-1-6	Amended	7	07/01/2000 . . .	45-2000
33-10.5-1-6	Amended	8	01/01/2001 . . .	45-2000
33-16-2-7	Amended	11	07/01/2000 . . .	23-2000
33-17-1-4	Amended	10	07/01/2000 . . .	98-2000
33-19-6-13	Amended	1	07/01/2000 . . .	47-2000
33-19-7-3	Amended	11	07/01/2000 . . .	98-2000

Title 34

34-6-2-117	Amended	29	07/01/2001 . . .	60-2000
34-11-2-11	Amended	69	03/15/2000 . . .	14-2000
34-26-2-12	Amended	70	03/15/2000 . . .	14-2000
34-28-5-1	Amended	12	07/01/2000 . . .	98-2000
34-30-2-144.5	New	13	07/01/2000 . . .	98-2000
34-30-2-152.4	New	14	07/01/2000 . . .	98-2000
34-30-2-152.6	New	15	07/01/2000 . . .	98-2000

Title 35

35-32-2-1	Amended	16	07/01/2000 . . .	98-2000
35-33-1-1	Amended	2	07/01/2000 . . .	47-2000
35-33-1-6	Amended	18	11/19/1999 . . .	1-2000

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Affected Provisions	Type	SEC.	Effective	P.L.
35-38-1-24	Amended	17	03/15/2000	90-2000
35-38-1-25	Amended	18	03/15/2000	90-2000
35-38-1-26	Repealed	25	03/15/2000	90-2000
35-38-2.5-6	Amended	24	07/01/2000	32-2000
35-40-6-7	Amended	71	03/15/2000	14-2000
35-41-1-4.3	New	1	07/01/2000	104-2000
35-41-1-4.6	New	25	07/01/2000	32-2000
35-41-1-6.6	New	2	07/01/2000	104-2000
35-41-4-2	Amended	1	07/01/2000	9-2000
35-42-2-1	Amended	1	07/01/2000	43-2000
35-42-2-1.3	Amended	3	07/01/2000	47-2000
35-45-4-1	Amended	1	07/01/2000	121-2000
35-46-1-4	Amended	10	07/01/2000	133-2000
35-46-1-10.2	Amended	72	03/15/2000	14-2000
35-46-1-11.5	Amended	73	03/15/2000	14-2000
35-46-1-11.7	Amended	74	03/15/2000	14-2000
35-46-3-6	Amended	75	03/15/2000	14-2000
35-47-4-5	Amended	76	03/15/2000	14-2000
35-47-4.5	New	1	07/01/2000	70-2000
35-47-5-2	Amended	2	07/01/2000	70-2000
35-47-5-8	Amended	3	07/01/2000	104-2000
35-47-5-9	Amended	4	07/01/2000	104-2000
35-47-5-10	Amended	5	07/01/2000	104-2000
35-48-2-1	Amended	77	03/15/2000	14-2000
35-50-1-7	New	19	03/15/2000	90-2000
35-50-6-1	Amended	20	03/15/2000	90-2000
35-50-6-3.3	Amended	78	03/15/2000	14-2000
35-50-6-3.3	Amended	21	03/15/2000	90-2000
35-50-6-4	Amended	22	03/15/2000	90-2000
35-50-6-5	Amended	23	03/15/2000	90-2000

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36-1-8-10.5	New	45	03/15/2000	26-2000
36-1-8-13	New	17	07/01/2000	98-2000
36-1-11-16	Amended	18	07/01/2000	98-2000
36-1-14-1	Amended	2	07/01/2000	17-2000
36-1-16	New	2	07/01/2000	22-2000
36-2-1-2	Amended	1	03/17/2000	123-2000
36-2-1-8	Amended	2	03/17/2000	123-2000
36-2-2-4	Amended	20	07/01/2000	122-2000
36-2-2-19	Amended	19	07/01/2000	98-2000

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Affected Provisions	Type	SEC.	Effective	P.L.
36-2-3-4	Amended	21	07/01/2000	122-2000
36-2-10-24	New	20	07/01/2000	98-2000
36-2-11-7.5	New	21	07/01/2000	98-2000
36-3-2-7	Amended	3	03/17/2000	123-2000
36-3-2-11	New	2	07/01/2000	19-2000
36-3-4-24	Amended	79	03/15/2000	14-2000
36-4-2-9	Amended	4	03/17/2000	123-2000
36-4-3-2.1	Amended	1	07/01/2000	49-2000
36-4-3-2.2	Amended	2	07/01/2000	49-2000
36-4-3-22	Amended	80	03/15/2000	14-2000
36-4-8-15	New	22	07/01/2000	98-2000
36-5-1-10.1	Amended	5	03/17/2000	123-2000
36-5-1-17	Amended	6	03/17/2000	123-2000
36-5-1.1-9	Amended	7	03/17/2000	123-2000
36-5-1.1-10	Amended	8	03/17/2000	123-2000
36-5-1.1-10.5	Amended	9	03/17/2000	123-2000
36-5-1.1-10.6	Amended	10	03/17/2000	123-2000
36-5-1.2-12	Amended	11	03/17/2000	123-2000
36-5-2-4.5	Amended	81	03/15/2000	14-2000
36-5-4-14	New	23	07/01/2000	98-2000
36-5-6-8	Amended	24	07/01/2000	98-2000
36-6-1-1	Amended	12	03/17/2000	123-2000
36-6-1-3	Amended	13	03/17/2000	123-2000
36-6-1-5	Amended	14	03/17/2000	123-2000
36-6-1-5.5	Amended	15	03/17/2000	123-2000
36-6-1-11	Amended	16	03/17/2000	123-2000
36-6-6-2	Amended	22	07/01/2000	122-2000
36-6-6-2.5	Amended	23	07/01/2000	122-2000
36-6-6-4	Amended	24	07/01/2000	122-2000
36-6-6-8	Amended	25	07/01/2000	98-2000
36-6-6-12	Amended	26	07/01/2000	98-2000
36-7-4-208	Amended	1	03/16/2000	103-2000
36-7-15.1-35.5	New	3	07/01/2000	19-2000
36-7-15.1-48	Amended	82	03/15/2000	14-2000
36-8-6-8	Amended	4	07/01/2000	118-2000
36-8-6-8.1	New	5	07/01/2000	118-2000
36-8-6-9.6	New	6	07/01/2000	118-2000
36-8-6-9.7	New	7	07/01/2000	118-2000
36-8-6-9.8	Amended	8	07/01/2000	118-2000
36-8-6-10.1	Amended	9	07/01/2000	118-2000
36-8-7-11	Amended	10	07/01/2000	118-2000
36-8-7-12.1	Amended	11	07/01/2000	118-2000

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Affected Provisions	Type	SEC.	Effective	P.L.
36-8-7-12.2	New	12	07/01/2000	118-2000
36-8-7-12.3	New	13	07/01/2000	118-2000
36-8-7-12.4	New	14	07/01/2000	118-2000
36-8-7-12.5	New	15	07/01/2000	118-2000
36-8-7-26	Amended	16	07/01/2000	118-2000
36-8-7.5-13	Amended	17	07/01/2000	118-2000
36-8-7.5-13.2	New	18	07/01/2000	118-2000
36-8-7.5-13.6	New	19	07/01/2000	118-2000
36-8-7.5-13.7	New	20	07/01/2000	118-2000
36-8-7.5-13.8	Amended	21	07/01/2000	118-2000
36-8-7.5-14.1	Amended	22	07/01/2000	118-2000
36-8-8-4	Amended	8	07/01/2000	119-2000
36-8-8-12	Amended	23	07/01/2000	118-2000
36-8-8-12.7	Amended	24	07/01/2000	118-2000
36-8-8-13.3	Amended	25	07/01/2000	118-2000
36-8-8-13.8	New	26	07/01/2000	118-2000
36-8-8-13.9	New	27	07/01/2000	118-2000
36-8-8-14.1	Amended	28	07/01/2000	118-2000
36-8-9-3	Amended	2	07/01/2000	103-2000
36-8-9-3	Amended	27	07/01/2000	98-2000
36-8-9-7	New	28	03/16/2000	98-2000
36-8-10-10	Amended	83	03/15/2000	14-2000
36-8-10-21	Amended	1	07/01/2000	80-2000
36-8-10-22	Amended	2	07/01/2000	80-2000
36-8-11-1	Repealed	11	07/01/2000	36-2000
36-8-11-2	Amended	2	07/01/2000	36-2000
36-8-11-4	Amended	3	07/01/2000	36-2000
36-8-11-5	Amended	4	07/01/2000	36-2000
36-8-11-5.1	New	5	07/01/2000	36-2000
36-8-11-9.5	New	6	07/01/2000	36-2000
36-8-11-11	Amended	7	07/01/2000	36-2000
36-8-11-22.1	New	8	07/01/2000	36-2000
36-8-11-24	Amended	9	07/01/2000	36-2000
36-8-16-16	Amended	84	03/15/2000	14-2000
36-8-16.5-19	Amended	2	07/01/2000	116-2000
36-8-16.5-39	Amended	3	07/01/2000	116-2000
36-8-19-8.5	Amended	10	03/15/2000	36-2000
36-9-3-5	Amended	85	03/15/2000	14-2000
36-9-3-12.5	Amended	86	03/15/2000	14-2000
36-9-23-33	Amended	29	07/01/2000	98-2000
36-10-2-4	Amended	26	07/01/2000	32-2000

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